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Law on Foreign Investments

91BA0859A Sofia DURZHAVEN VESTNIK in Bulgarian No 47, 14 Jun 91 pp 1-3

[“Text” of Law on Foreign Investments, adopted by the Grand National Assembly on 17 May and signed by Nikolay Todorov, chairman of the Grand National Assembly; Article 3 of the law has been corrected in accordance with a correction published in DURZHAVEN VESTNIK No. 48, 18 June p 28]

[Text]

Ukase No. 193
of President of the Republic Zhelyu Zhelev
issued in Sofia on 12 June 1991
and sealed with the state seal

On the basis of Article 84, Paragraph 1, and Article 8 of the Constitution of the Republic of Bulgaria, I hereby decree that the Law on Foreign Investments, adopted by the Grand National Assembly on 17 May 1991, shall be published in DURZHAVEN VESTNIK.

Law on Foreign Investments

Introduction

Article 1. This law shall regulate the conditions and procedures for the making of investments by foreign persons in the economic activity in the country.

Territorial Scope

Article 2. Foreign investments may be made in the territory of the Republic of Bulgaria, including the territorial waters, as well as on the continental shelf and in the exclusive economic zone.

Foreign Investment System

Article 3. The national system shall be applied to foreign persons making investments in the country unless otherwise provided in this law or in an international treaty.

Investments in Economic Activities

Article 4. (1) Foreign persons may make investments in any economic activity except when forbidden by law. The making of investments and the engaging in economic activity shall be conducted subject to the observance of Bulgarian laws and ethics and when public health, national security, and public order are not imperiled.

(2) Foreign persons may make investments in the country without a permit with the following exceptions:

1. investments in the military industry, in banking and insurance activity;
2. acquisition of a property right in buildings and other real rights;
3. leasing of agricultural and forest lands;

4. investments in certain geographic regions specified by the Council of Ministers;

5. investments for the use of territorial waters as well as of the continental shelf and the exclusive economic zone;

6. investment in certain sectors and activities specified by the Council of Ministers when foreign participation in the companies results in the acquiring of control over these companies;

7. transactions involving the transfer of investments made by permit under the procedure of this paragraph.

(3) Foreign investments shall be registered according to the procedure specified by law for the form of economic activity in question. Investments for which no permit is required shall be declared to the agency indicated in Article 7, Paragraph 1 within 30 days of registration.

(4) Legally made investments shall not be subject to subsequent restrictions or prohibitions.

Article 5. (1) Foreign persons and companies with foreign participation may not acquire ownership of land, underground resources, forests, and water.

(2) Foreign persons and companies with foreign participation may acquire a use right to nonagricultural lands for the carrying on of economic activity by them for a term of 70 years.

(3) When, on termination of foreign participation in the country, real property or the real right to it is sold, the Bulgarian participant shall, *ceteris paribus*, have a pre-emptive right, and, when there is no such participant, the Bulgarian state.

(4) The price of the real properties as well as that of the real rights to them shall be freely negotiated among the parties.

Issuance of Permits

Article 6. (1) The permits envisaged in this law shall be issued by the Council of Ministers or by a collective agency established by it, on the basis of an application to which shall be appended a technical and economic substantiation containing pertinent data on the following:

1. technological and technical justification of the production process at the present-day level; creation and sale of new scientific and technical products in the field of the given economic activity;

2. creation and expansion of production of competitive products and stimulation of production with the use of Bulgarian raw materials, supplies, and energy resources in the given economic activity;

3. creation of new jobs;

4. restoration and preservation of the environment.

(2) Permits for foreign investments in banking activity shall be issued by the Board of Directors of the Bulgarian National Bank on recommendations of the board chairman.

(3) Permits shall be issued within 45 days of receipt of applications. Rejections shall be substantiated. Permits and rejections shall not be appealable.

(4) When an application is turned down, a permit may be requested again if the proposal is changed in conformity with the reasons for the rejection.

Forms of Foreign Persons' Economic Activity

Article 7. Foreign investments in economic activity in the country may be made in all juridical forms envisaged in Bulgarian legislation for Bulgarian nationals.

Absence of Limitations

Article 8. The maximum amount of foreign participation in newly established or existing companies shall not be limited.

Protection of Real Rights of Foreign Investors

Article 9. (1) The investments of foreign persons shall not be subject to appropriation for the benefit of the state by administrative procedure unless the act is judicially appealable.

(2) The real properties of foreign investors may not be expropriated except for important state needs that cannot be met otherwise.

(3) In case of expropriation, the foreign investor shall be compensated by agreement. If no agreement is reached within a 90-day period from notice of the expropriation decision, the kind and amount of compensation shall be determined by the okrug court on request of the interested party.

(4) When the compensation for the expropriated property is monetary, it shall be paid at once on execution of the claim and shall be freely transferable abroad. The expropriated property may not be taken by the state prior to full payment of the compensation that is owed.

Concessions

Article 10. The regions, conditions, and procedure for the granting to foreign persons of concessions for exploration, surveying, working, extraction, and utilization of natural resources, as well as for economic activities over which a state monopoly is established, shall be determined only on the basis of a special law for each concession.

Transfer of Income and Compensations

Article 11. (1) A foreign person who has made an investment in the country may transfer abroad in foreign currency profits, interest, dividends, and other income from his investment.

(2) The Bulgarian National Bank shall sell convertible currency in return for leva at the central rate of exchange when a foreign person who has invested in the country is taking out the following:

1. compensation received in Bulgarian currency for an expropriated investment;

2. the portion of his liquidated quota received in leva up to the amount of foreign currency payments made into capital.

(3) A foreign investor in the country may exchange earnings realized from his investment, renumeration for labor and a liquidation quota in leva by purchasing foreign currency at the market rate of exchange from any bank that conducts such operations, and may, as well, transfer abroad the foreign currency thus purchased.

(4) Transfers in accordance with Paragraphs 1, 2, and 3 shall be made within 30 days from the day of receipt at the Bulgarian National Bank of a foreign person's application for a transfer. In the event of delay, interest at the market rate for demand deposits shall be owed.

Labor and Insurance Relations

Article 12. (1) The labor-law relations that arise in connection with a foreign person's investing in economic activity, including investments jointly with Bulgarian nationals, shall be regulated by a labor contract.

(2) Labor disputes in which Bulgarian citizens are a party shall be decided by the Bulgarian courts, but, if a foreign citizen is a party, in accordance with what is stipulated in the labor contract.

(3) For questions not regulated by the labor contract, the provisions of Bulgarian labor legislation shall be applicable.

(4) Bulgarian citizens who are in labor-law relations with an employer under Paragraph 1 shall mandatorily be insured for all insurance contingencies in compliance with Bulgarian legislation. Foreign workers shall be insured in conformity with the labor contract.

Administrative-Penalty Provision

Article 13. A foreign person who invests in an economic activity without registration or a permit shall, if such are required, be fined in an amount equal to twice the profits made in the country, as ascertained by the tax authorities, but not less than 50,000 leva. In this event, his activity shall be terminated. The violations shall be ascertained by agencies of the Ministry of Finance and shall be appealable in accordance with the procedure of the Law on Administrative Violations and Penalties.

Additional Provisions

Section 1. The Council of Ministers may decree that the provisions of this law shall not apply, in whole or in part, to the investments in an economic activity of foreign

persons from countries in which discriminatory measures are applied to Bulgarian companies and citizens.

Section 2. In cases under Article 4, Paragraph 3, as well as in case of the transfer of stocks or shares in Bulgarian companies, held in the name of foreign persons, to other foreigners or to Bulgarian nationals, the registering agency in question must without delay advise the agency indicated in Article 6, Paragraph 1, sending it at the same time a copy of the registration document.

Section 3. (1) In the sense of this law, "foreign investment" is an investment of a foreign person in economic activity via the following:

1. establishment of his own enterprise or acquisition of sole ownership of an enterprise;
2. expansion of his own enterprise;
3. participation in a new or existing enterprise;
4. a long-term investment credit (five years or more) in an enterprise obtained outside banking channels.

(2) The minimum amount of investments under Paragraph 1, Sections 1, 3, and 4, may not be less than \$50,000 or equivalent in other convertible currency at the exchange rate on registration day.

(3) The following shall not be considered to be investments of foreign persons under Paragraphs 1 and 2: investments in foundations, funds, and other organizations with a noneconomic purpose, including investments when economic activity is carried on for achievement of these organizations' purposes.

(4) "Foreign person" in the sense of this law shall be the following:

1. a juridical person or company that is not a juridical person registered and with headquarters in a foreign country;
2. foreign citizens regardless of whether they have permanent residence in the country;
3. Bulgarian citizens with permanent residence abroad.

Section 4. In the sense of this law, "foreign control" shall be an investment or participation of a foreign person in an enterprise that ensures him the right or the possibility to determine, directly or indirectly, the enterprise's decisions or activity.

Transitional and Final Provisions

Section 5. The provisions of Article 4 shall apply also to companies with foreign participation that are registered in the country.

Section 6. This law rescinds Article 4, Paragraphs 2 and 3; Articles 99-106, 119, 120, 121, 123, 124, 124, and 126 and Section 11 of the transitional and final provisions of Ukase No. 56 on Economic Activity.

Section 7. Foreign investments in duty-free zones shall be regulated by a separate law.

Section 8. The Council of Ministers shall, within three months from the entry into force of this law, approve the lists under Article 4, Paragraph 2, Sections 4 and 5.

Section 9. Enforcement of this law shall be entrusted to the Council of Ministers.

Law on Ownership Conditions for Indemnification

*91CH0728Z Budapest MAGYAR KOZLONY
in Hungarian No 77, 11 Jul 91 pp 1421-1433*

[“Text” of Law No. 25 of 1991 to settle ownership conditions for the partial indemnification of damages caused by the state to the property of citizens; adopted by the National Assembly at its 26 June session]

[Text] Guided by the principle of constitutional statehood and in due regard to society's sense of justice and ability to accept burden, the National Assembly creates the following Law to settle ownership conditions consistent with sales conditions, to establish entrepreneurial security under conditions of a market economy, and to mitigate unjust damages caused by the state to citizens in their property:

SCOPE OF LAW**Paragraph 1**

- 1) Natural persons whose private property has been violated as a result of enforcing legal provisions created by the state after 1 May 1939, as enumerated in Appendixes 1 and 2, shall be entitled to partial indemnification (hereinafter: indemnification).
- 2) Based on this law, natural persons, as defined in Paragraph 2, whose private property has been violated as a result of enforcing legal provisions created after 8 June 1949, as enumerated in Appendix 2, shall be entitled to indemnification.

3) Indemnification of damages caused by the enforcement of legal provisions created between 1 May 1939 and 8 June 1949, as enumerated in Appendix 1, shall take place pursuant to the provisions of a separate law to be enacted by 30 November 1991, in a manner consistent with the principles defined in this law.

Paragraph 2

- 1) The following persons shall be entitled to indemnification:

- a) Hungarian citizens,
- b) Persons who were Hungarian citizens when they suffered damages, [or]
- c) Persons who suffered damages in conjunction with the deprivation of their Hungarian citizenship, [and]
- d) Non-Hungarian citizens who were permanent residents of Hungary as of 31 December 1990.

- 2) If the person entitled to indemnification [hereinafter: entitled person] defined in Section (1) above (hereinafter [also]: former owner) is deceased, the former owner's descendant, or in the absence of a descendant, the former owner's spouse, shall be entitled to indemnification.

3) Descendants shall be entitled to indemnification exclusively after the deceased ascendant and only to the extent of the ascendant's entitlement, divided in equal portions among the descendants. No indemnification shall be made for a deceased descendant's share of property if such descendant has no descendant.

4) The surviving spouse shall be entitled to indemnification if there is no descendant, provided that such spouse was married to and lived with the former owner when the former owner suffered the injuries and at the time of the former owner's death.

5) A person whose claim has already been settled in the framework of an international agreement shall not be entitled to indemnification.

DETERMINING THE EXTENT OF DAMAGES**Paragraph 3**

- 1) The extent of damages shall be defined in the form of flat rates. Appendix 3 contains the flat rates applicable to certain types of property.
- 2) The extent of damage involving arable land shall be determined pursuant to the provisions of Paragraph 13.
- 3) The flat rates mentioned in Sections (1) and (2) shall include the value of movable property.
- 4) Only one type of indemnification shall be due after each piece of property, but the owner shall have an opportunity to choose between various types of indemnification.

EXTENT OF INDEMNIFICATION**Paragraph 4**

1) That part of the aggregate damages determined pursuant to the provisions of Paragraph 3 shall be the subject of indemnification which is derived as a result of calculations based on the table provided in Section (2) below, rounded to the nearest one thousand forints, and which does not exceed the amount specified in Section (4) below.

2) Extent of indemnification:

Extent of Damage	Extent of Indemnification
0-200,000 forints	100 percent
200,001-300,000 forints	200,000 forints plus 50 percent of the amount over and above 200,000 forints
300,001-500,000 forints	250,000 forints plus 30 percent of the amount over and above 300,000 forints
500,001 forints and above	310,000 forints plus 10 percent of the amount over and above 500,000 forints

3) The amount of indemnification per piece of property and per former owner shall not exceed 5 million forints.

4) In case of multiple owners the extent of indemnification shall be determined based on the proportionate share of ownership held by the several owners.

METHOD OF INDEMNIFICATION

Paragraph 5

1) An indemnification voucher shall be issued for the amount of indemnification. All indemnification vouchers issued to an entitled person shall bear the same serial designation. (Paragraph 6 Section (2)).

2) The indemnification voucher shall be redeemable on sight, shall be transferable and shall constitute a security whose value corresponds with the amount of indemnification and whose face value shall constitute a demand against the state.

3) An indemnification voucher shall earn interest for a period of three years beginning on the first day of the calendar year quarter in which it was issued. The rate of interest shall be 75 percent of the central bank's basic interest rate which prevails at any given point in time.

4) Irrespective of the date of issue, interest shall accrue beginning on the effective date of this law.

5) The face value of an indemnification voucher shall be increased by adding the amount of interest calculated on the basis of an interest rate publicized monthly by the National Damage Claims Settlement Office, and shall be credited on the first days of subsequent months.

Paragraph 6

1) An indemnification voucher shall contain the following:

- a) the designation "indemnification voucher";
- b) the face value of the voucher and a reference to crediting interest (Paragraph 5 Section (5));
- c) a description of the method in which the indemnification voucher may be used (Paragraph 7);
- d) the date and place of issue;
- e) designation of the serial issue (Section (2)) and a serial number;
- f) the signature of the director of the National Damage Claims Settlement Office and
- g) the denomination of the voucher (1,000 forints, 5,000 forints, 10,000 forints).

2) Indemnification vouchers shall bear serial issue designations A through J. Individual series shall be issued in equal quantities and at an equal pace.

3) The issuance and sale of indemnification vouchers shall be governed by the provisions of this law.

Paragraph 7

1) The state shall guarantee the ability of holders of indemnification vouchers to redeem such vouchers pursuant to conditions provided in this law

a) for the purchase of pieces of property, stock and business shares sold in the course of privatizing state property, and

b) for the acquisition of arable land property.

2) An entitled person may use indemnification vouchers to which he is entitled under this law as method of payment whenever state owned housing units, or, following the promulgation of this law, state owned housing units transferred free of charge into the ownership of autonomous local governmental bodies are sold. In such transactions indemnification vouchers shall be exchanged at face value.

3) The face value of indemnification vouchers shall be regarded as a person's own financial resource whenever a person borrows funds pursuant to the provisions of the law concerning the small business ["Existence"] fund or when taking advantage of privatization loans.

4) At the request of an entitled person, annuity payments may be provided during the entitled person's life in exchange for indemnification vouchers and in the framework of social security pursuant to separate law.

Paragraph 8

1) If so recommended by the State Property Agency [AVU], the government may suspend purchases in exchange for indemnification vouchers (Paragraph 7 Section (1)(a)) each year relative to a certain series of, or all indemnification vouchers in circulation. The period of suspension shall not exceed six months per year, and suspensions may be made only until 31 December of the fifth full calendar year starting in the year when the indemnification vouchers are issued. Thereafter the use of indemnification vouchers for the purpose of making purchases shall not be restricted.

2) A given series of indemnification vouchers may be suspended for identical periods of time as viewed in two year averages, and the series of indemnification vouchers to be suspended shall be chosen in a public lottery drawing. The time period in which indemnification vouchers earn interest shall be extended by the time period during which a given series of indemnification vouchers was suspended.

3) Indemnification vouchers shall be accepted as payment for at least 10 percent of the value of assets of a state enterprise in the process of transforming into a business organization—as the value of such assets is evidenced by the financial statement of such state enterprise, and of the value of state owned assets sold directly. The AVU shall determine the extent to which indemnification vouchers may be accepted as payment for such property over and above the 10 percent minimum limit.

4) Indemnification vouchers acquired by a cooperative pursuant to the provisions of Paragraph 26 shall be accepted as payment to the extent of at least 20 percent of the assets of state food industry enterprises in the process of transforming into business organizations—as the value of such assets is evidenced by the financial statements of such enterprises.

5) In the event that the AVU board of directors renders a decision concerning the direct sale to a single owner of a state enterprise in the process of transforming into a business organization or in regard to a piece of property owned by the state, the AVU may deviate from the minimum redemption levels specified in Sections (3) and (4) above.

Paragraph 9

A person entitled to indemnification shall enjoy pre-purchase rights whenever the AVU or a unit of local government sells that person's former property. Exceptions to this rule are as follows: Cases governed by Law No. 74 of 1990; instances when rental housing units owned by a local government or by the state are purchased by their present occupants; situations in which the property pertains to a right having pecuniary value (e.g. corporate, membership rights); or situations in which the AVU sells membership rights in a corporation which acquired such property or was established with the contribution of such property.

PROCEDURAL RULES

Paragraph 10

1) With respect to cases arising under the authority of this law the county (Budapest) damage claims settlement office shall act as the authority of the first instance, and the National Damage Claims Settlement Office (hereinafter jointly: Office) as the authority of the second instance.

2) Authorities charged with the protection of the natural environment shall participate in the workings of the county (Budapest) Office, and the Ministry of Environmental Protection and Regional Development in the workings of the national Office as the expert authorities of the first instance.

3) Final determinations rendered by the Office may be reviewed in court. Courts shall also be authorized to change the Office's determinations subject to challenge. Proceedings shall be governed by rules provided in Chapter 20 of the Code of Civil Procedure.

Paragraph 11

1) Entitled persons may submit petitions for indemnification within 90 days from the effective date of this law to the county (Budapest) Office having jurisdiction.

2) In the event that the property which serves as the basis for an indemnification claim includes real estate, the

county (Budapest) office having jurisdiction at the place where the real estate is located shall have jurisdiction.

3) The Budapest Office shall have jurisdiction to proceed if the entitled person permanently resides abroad.

4) In case several county (Budapest) offices have jurisdiction (positive jurisdictional conflict), the county (Budapest) office chosen by the entitled person shall proceed with respect to all of the claimant's property.

Paragraph 12

1) Petitions for indemnification shall be submitted in writing. Failure to submit such petition within the deadline specified in Paragraph 11 Section (1) shall constitute the surrender of the right to file a claim.

2) All documents or copies of documents which verify entitlement to property shall be attached to the petition. Lacking such documentation reference shall be made to other evidence of ownership.

3) In the event that a petition is filed in a manner inconsistent with the provisions of Section (2) above, the Office shall return such petition to the entitled person by simultaneously granting an extension of time to file the petition together with the missing data. In the event that an entitled person returns the petition in response to the Office's request to provide additional data without such additional data, the Office shall judge the petition based on the available data.

4) The county (Budapest) Office shall provide a summary notice to the affected business organizations within two months from the deadline established in Paragraph 11 Section (1) concerning the Gold Crown value of claims filed against arable land owned or used by such business organizations and acquired in a manner subject to the authority of this law.

5) The Office shall proceed pursuant to the rules provided in Law No. 4 of 1957 concerning general rules of state administrative procedure, except for the following:

a) the deadline for action shall be six months from the date of receipt of petition. This deadline may be extended by the head of the Office only once for a period no longer than three months;

b) proceedings shall be suspended if in his petition, or at the request of the Office the claimant verifies that he has initiated necessary court or other official proceedings to establish ownership rights which serve as a foundation for his claim.

6) Proceedings initiated before the Office on the basis of this law shall be exempt from the payment of dues.

SPECIAL RULES PERTAINING TO ARABLE LAND

Paragraph 13

- 1) Whenever a claim involves arable land, the extent of damage shall be determined based on the cadastral net income of the arable land (hereinafter: Gold Crown value), so that the value of one Gold Crown equals 1,000 forints. Relative to forest land the quadruple of this Gold Crown value shall be considered as the basis of calculations.
- 2) If a former owner received land in exchange for his arable land, the extent of damage shall be established on the basis of the applicable Gold Crown value differential.
- 3) In the event that Gold Crown data pertaining to part of the land cannot be found in earlier documents, the Gold Crown value shall be determined on the basis of the cadastral net income data of the town (city) which exercises authority over the area where the land is located. Calculations shall be made based on the average Gold Crown data determined at the close of the years 1982 through 1985.
- 4) In the event that the whole or part of the original land was recorded as an area not under cultivation or as a fish pond, the extent of damage shall be determined on the basis of the Gold Crown value established for the lowest quality cultivated plough land in the surroundings of the town (city) which exercises authority over the area where the land is located.

Paragraph 14

If the former owner received any kind of compensation (e.g. redemption price) for his arable land, the amount of such compensation shall be deducted from amount of damage to be indemnified calculated pursuant to the provisions of Paragraph 4.

Paragraph 15

- 1) In order to provide indemnification in the form of arable land, the cooperative or its legal successor (hereinafter: cooperative) shall designate the arable land area it owns or uses as of the day when this law is promulgated, and which it acquired on the basis of legal provisions enumerated in Appendix 2. Such designation shall take place within 30 days from date of receipt of the notice described in Paragraph 12 Section (4) pursuant to the provisions of Paragraphs 16-18. In the event that a cooperative fails to comply with the obligation to designate the arable land area referred to above, the entire arable land area acquired on the basis of this law [as published] and owned or used by the cooperative shall be regarded as designated arable land.

- 2) Entitled persons shall have a right to purchase arable land designated pursuant to Section (1) above.

Paragraph 16

A cooperative shall designate arable land having a Gold Crown value of at least the value shown in the notice described in Paragraph 12 Section (4), so that the average Gold Crown value of the designated land corresponds with the average Gold Crown value of the cooperative's other lands.

Paragraph 17

- 1) A land bank shall be established in the course of designating arable land for the purpose of transferring land to the ownership of members and employees of cooperatives, and of employees of state farms. The size of the land bank shall be determined by allocating land of an average value of 30 Gold Crowns to each member of a cooperative, and of 20 Gold Crowns to each employee of a cooperative or a state farm. The Gold Crown value of the land bank thus calculated shall not exceed 50 percent of the Gold Crown value of arable land owned by the cooperative or managed by the state farm.
- 2) For purposes of calculating the size of the land bank mentioned in Section (1) above, current members of cooperatives, or employees of cooperatives or state farms whose membership or employment relationship has already existed on 1 January 1991, and whose agricultural land property is smaller than the size of property defined in Section (1) above shall be regarded as members of cooperatives or as employees of cooperatives or state farms.

Paragraph 18

- 1) Arable land to be released shall be designated outside of protected natural reservations.
- 2) In the event that the area available outside of protected natural reservations is not sufficient for purposes of designation, plough lands, gardens, orchards, vineyards or forests owned by the cooperative, and cultivated protected natural areas may also be designated. The exceptions in this regard are: national park areas and areas governed by international agreements or subject to intensive protection.
- 3) The concurrence of the authority charged with the protection of the natural environment shall be obtained before designating protected natural areas.
- 4) If in the course of indemnification a protected natural area is released or if some other restriction on land use already exists, the persons participating in the auction (Paragraph 21.) shall be so informed in writing.
- 5) These provisions shall also apply with respect to areas that are planned to be classified as protected areas.
- 6) Land areas protected as historical sites, originally not belonging, or not adjacent to agricultural buildings or structures, which were originally not regarded as arable land shall not be designated.

Paragraph 19

Simultaneously with and after the auctioning of cooperative lands the state shall also auction state owned land. The Gold Crown value of land thus auctioned shall amount to at least 20 percent of the Gold Crown value of land auctioned by cooperatives.

Paragraph 20

1) Arable land designated pursuant to the provisions of Paragraphs 15-19 shall be sold at auction to entitled persons. If the land of the former owner is state owned land and was transferred into the common use of a cooperative, the cooperative may also auction state owned arable land under the common use of the cooperative.

2) The initial and final dates for auctions shall be determined by the county (Budapest) Office having jurisdiction in the area where the cooperative is headquartered, in due regard to the evaluation of petitions for indemnification.

Paragraph 21

1) The following entitled persons may participate in the auction with indemnification vouchers to which they are entitled:

- a) persons whose expropriated arable land is presently owned or used by the cooperative;
- b) members of the cooperative as of 1 January 1991 who continue to hold such membership at the time of the auction;
- c) permanent residents as of 1 June 1991 of the municipality or city in which the auctioning cooperative's arable land is located.

2) The official exercising state administrative authority in the county (Budapest) Office having jurisdiction shall conduct the auction, and a notary public shall attest to the legality of the auctioning process.

Paragraph 22

1) Participants at the auction shall bid by stating forint values corresponding to one Gold Crown value. The upset price shall be 3,000 forints per Gold Crown. If there are no bids at or above the upset price, the upset price may be lowered gradually, but to no less than 500 forints per Gold Crown value.

2) The auctioning must be conducted pursuant to the provisions of the implementing decree. In a manner consistent with their bid, successful bidders may exercise their right to purchase the part of land they selected from the cooperative's arable land defined in Paragraphs 15-18. Owners of detached farms entitled to indemnification shall enjoy a prepurchase right regarding the arable land surrounding their detached farms.

Paragraph 23

1) The right to purchase defined in Paragraph 22 Section (2) may be exercised by a person entitled to do so provided that such person commits himself to use the arable land for agricultural purposes and not to withdraw the land from agricultural production for a period of five years.

2) Arable land acquired by exercising the right to purchase shall be taken away from the owner without indemnification and shall be sold at auction, in the event that such owner reneges on the commitment made pursuant to Section (1) within five years from the date of acquiring the land.

3) If arable land acquired by exercising the right to purchase is sold within three years from the date of acquisition, proceeds of the sale, offset by the amount of investment to increase the value of such arable land, shall be regarded as income from the standpoint of the owner's personal income taxes in the year when the arable land was sold. The sales value used for calculating official dues shall be regarded as the amount of proceeds.

Paragraph 24

1) An entitled person as defined in Paragraph 21 who agrees to register as an agricultural entrepreneur with the tax authority within 30 days from the date of the auction may file a claim for the difference between the extent of damage defined pursuant to Paragraph 3 and the extent of indemnification defined pursuant to Paragraph 4. This amount shall be paid as agricultural entrepreneurial support for the purpose of purchasing arable land at auction. The combined amount of indemnification and support shall not exceed 1 million forints.

2) If a recipient of support payment defined in Section (1) above fails to register as an agricultural entrepreneur within the time limit specified, or if the tax authority determines within five years from the date when the arable land was purchased that the recipient does not conduct actual agricultural entrepreneurial activities, the support payment shall be reclassified into a loan and shall become due immediately.

3) A five year lien in favor of the state and a prohibition to sell shall be recorded on land acquired by an indemnified person with the use of support funds mentioned in Section (1) above. The lien in favor of the state and the prohibition to sell shall be cancelled if the indemnified person repays the amount of support within five years to the tax authority.

4) At the request of an entitled person the Office having jurisdiction shall issue a voucher for the amount of agricultural entrepreneurial support. Such vouchers may be used as payment at auctions in a manner similar to indemnification vouchers. A cooperative may request the county (Budapest) Office having jurisdiction in the place where the cooperative is headquartered to issue indemnification vouchers in exchange for agricultural

entrepreneurial support vouchers acquired by the cooperative from entitled persons in the course of auctioning land owned by the cooperative. Support vouchers may be exchanged only to the extent of the actual amount expended for the purchase of land.

Paragraph 25

- 1) An entitled person shall reimburse the entity which sells the land at auction for the incremental value of the arable land purchased which is not expressed in Gold Crown value, as offset by the amount of state support.
- 2) Expenses incurred in conjunction with the assignment of arable land, the development of the land as an independent piece of real property and the cost of recording such real property shall be paid by the buyer. The acquisition of property shall be exempt from the payment of official dues.

Paragraph 26

Indemnification vouchers acquired by a cooperative in exchange for arable land designated pursuant to Paragraphs 15-18 and sold at auction may be used by the cooperative in a manner consistent with the provisions of Paragraph 7 Section (1). This provision shall not apply to indemnification vouchers received by a cooperative for the sale of state owned land used by the cooperative.

Paragraph 27

- 1) State farms shall designate and auction arable land owned by the state and managed by the state farm pursuant to the provisions of Paragraphs 15-26.
- 2) Any entitled person may use the indemnification vouchers to which he is entitled when state owned arable land in addition to arable land designated by state farms pursuant to the provisions of Paragraph 15 Section (1) is auctioned. Such auctions shall be governed by the provisions of Paragraphs 22-23 and 25.

Paragraph 28

Indemnification vouchers obtained by cooperatives and state farms in the course of auctions in exchange for the sale of state owned arable land shall be forwarded to the county (Budapest) Office having jurisdiction within 30 days.

CLOSING PROVISIONS

Paragraph 29

The cabinet shall provide for the implementation of this law, including the establishment of the Office and of rules for the functioning of the Office.

Paragraph 30

This law shall take effect 30 days after its promulgation, but the provisions of Paragraphs 7 Section (2) and Paragraph 29 shall be applied beginning on the day of promulgation.

[Signed] Arpad Goncz, president of the Republic
[Signed] Gyorgy Szabad, president of the National Assembly

APPENDIX 1

To Law No. 25 of 1991

1939

- 1) Act No. 4 of 1939 concerning the limitation of Jews gaining ground in public life and in the economy.

1940

- 2) Office of the Prime Minister Decree No. 3350/1940.ME supplementing the implementing rules of landed estate policies contained in Act No. 4 of 1939.

1942

- 3) Act No. 15 of 1942 concerning agricultural and forest real property owned by Jews, and Office of the Prime Minister Decree No. 3600/1943.ME implementing the Act.

- 4) Minister of Agriculture Decree No. 550,000/1942.FM concerning the conveyance of small real property owned by Jews.

1943

- 5) Office of the Prime Minister Decree No. 4070/1943.ME restricting the sale of animals, and farm implements and buildings related to real property governed by the provisions of Act No. 15 of 1942 concerning agricultural and forest real property owned by Jews.

1944

- 6) Office of the Prime Minister Decree No. 1600/1944.ME concerning the reporting and sequestering of property owned by Jews.

- 7) Office of the Prime Minister Decree No. 1830/1944.ME concerning the recording and preservation of sequestered works of art belonging to Jews.

- 8) Office of the Prime Minister Decree No. 2650/1944.ME providing rules relative to certain issues concerning property owned by Jews.

- 9) Minister of Commerce and Transportation Decree No. 50,550/1944.KKM concerning the sequestering of merchandise inventories and fixtures related to stores owned by Jewish merchants.

1945

- 10) Act No. 6 of 1945 providing statutory effect to Office of the Prime Minister Decree No. 600/1945.ME concerning the termination of the large estate system and the provision of land to people engaged in agricultural work.

- 11) National Government Decree No. 12,330/1945.ME concerning the relocation of the German population of Hungary to Germany.

12) Minister of Agriculture Decree No. 2,400/1945.FM concerning the allocation of housing lots and public purpose [“interest”] lots.

13) Minister of Agriculture Decree No. 5,600/1945.FM further implementing Office of the Prime Minister Decree No. 600/1945.ME concerning the termination of the large estate system and the provision of land to people engaged in agricultural work.

1946

14) Act No. 9 of 1946 concerning the settlement of people and to expedite the conclusion of land reform.

15) Act No. 13 of 1946 concerning the nationalization of coal mining.

16) Act No. 20 of 1946 concerning the transfer of power plants and long distance power lines owned by electrical works into state ownership, and other provisions related to electrical energy management.

1947

17) Act No. 5 of 1947 containing certain provisions needed for the conclusion of land reform.

18) Act No. 19 of 1947 relative to pious caring for Soviet-Russian military memorials and heroes’ cemeteries.

19) Act No. 30 of 1947 relative to transfer into state ownership of the Hungarian owned stock of financial institutions operating in the form of stock corporations under Curia No. 1 of the Hungarian National Bank and the Central Corporation of Banking Companies.

20) Cabinet Decree No. 12,200/1947 amending, supplementing and summarizing Office of the Prime Minister Decree No. 12,330 of 1945.ME concerning the relocation of the German population of Hungary to Germany, and other related decrees.

1948

21) Act No. 13 of 1948 concerning the nationalization of bauxite mining and aluminum production.

22) Act No. 25 of 1948 concerning the transfer of certain industrial enterprises into state ownership.

23) Act No. 26 of 1948 concerning the deprivation of Hungarian citizenship and the confiscation of property of certain persons staying abroad.

24) Act No. 33 of 1948 transferring the function of maintaining non-state schools to the state, the related property into state ownership, and the personnel of such schools into state service.

25) Act No. 60 of 1948 concerning Hungarian citizenship.

26) Cabinet Decree No. 10,010/1948 concerning the use of agricultural industrial plants related to real property

redeemed or confiscated in the course of implementing the reform of landed estates.

27) Cabinet Decree No. 12,770/1948 concerning the termination of the special legal class of lots awarded with the title “Vitez”, lots awarded for military service, family estates and protected estates.

28) Minister of Agriculture Decree No. 22,140/1948.FM governing certain issues relative to the implementation of landed estate reform.

29) Minister of Agriculture Decree No. 22,900/1948.FM concerning the implementation of the property provisions contained in Cabinet Decree No. 12,200/1947 concerning the relocation of the German population of Hungary to Germany.

30) Cabinet Decree No. 13,390/1948 (5 January 1949) concerning the transfer of public use and limited public use narrow gauge railroads into state ownership.

1949

(To 8 June 1949)

31) Act No. 1 of 1949 concerning the transfer of ownership of real property accommodating Soviet military memorials and heroes’ cemeteries to (municipalities) cities.

32) Act No. 7 of 1949 concerning the termination of estates in fee entailed, and Minister of Industry Decree No. 33,000/1949.IM concerning implementation of the Act.

33) Cabinet Decree No. 450/1949 (15 January) transferring ownership of certain industrial railroads to the state treasury.

34) Cabinet Decree No. 690/1949 (22 January) concerning the use of forest industrial plants attached to real property that changed in the course of implementing land reform, or real property which has been confiscated.

35) Cabinet Decree No. 1,310/1949 (12 February) concerning a requirement to report persons departed from the territory of the country without permission, and the handling of property they left behind.

36) Cabinet Decree No. 2,050/1949 (5 March) concerning the review of the technical condition of threshing machines and the use of certain threshing machines.

APPENDIX 2

To Law No. 25 of 1991

1949

1) Law No. 24 of 1949 concerning the settlement of certain issues related to the conclusion of land reform and settlement.

- 2) Decree with the Force of Law No. 3 of 1949 concerning the partial replotting of agricultural and forest management real estate.
- 3) Decree with the Force of Law No. 20 of 1949 concerning the transfer of certain industrial and transportation enterprises to state ownership.
- 4) Cabinet Decree No. 4091 of 16 June 1949 concerning the offering of agricultural real property and equipment related to such property.
- 5) Cabinet Decree No. 4096 of 18 June 1949 concerning the performance of funeral functions in individual cities and towns by municipal enterprises.
- 6) Cabinet Decree No. 4153 of 29 July 1949 concerning the review and assignment of saw mills, and in regard to amending Cabinet Decree No. 470 of 15 January 1949, insofar as plants sequestered pursuant to the provisions of Paragraph 4 Section (4) were subsequently transferred into state ownership without indemnification.
- 7) Cabinet Decree No. 4162 of 26 July 1949 concerning the increased prevention of illegal border crossing and smuggling across the border in certain areas, insofar as real property transferred to the state for use by the state pursuant to Paragraph 1 Section (2) was subsequently transferred into state ownership without indemnification.
- 8) Council of Ministers Decree No. 4314 of 13 November 1949 concerning the facilitation of the merger of certain cooperatives.

1950

- 9) Decree with the Force of Law No. 25 of 1950 concerning transfer of public pharmacies to state ownership.
- 10) Council of Ministers Decree No. 284 of 10 December 1950 concerning the offering of real estate owned by industrial workers, laborers, miners and transportation workers to the state.
- 11) Minister of Agriculture Decree No. 16100 of 23 August 1950 amending Decree with the Force of Law No. 3 of 1949 concerning the partial replotting of agricultural and forest management real property, providing for the implementation of the Decree with the Force Law in 1950.

1951

- 12) Council of Ministers Decree No. 94 of 17 April 1951 providing new procedural rules for the confiscation of property, insofar as sequestering and the confiscation of property was ordered by way of a notice concerning illegal departure from Hungary issued by the police (Council of Ministers Decree No. 93 of 17 April 1951).
- 13) Council of Ministers Decree No. 101 of 29 April 1951 concerning the registration and transfer of inhabitable premises used for other purposes, as well as

Council of Ministers Decree No. 165 of 7 September 1951 supplementing and amending these provisions, insofar as the premises utilized were subsequently transferred to state ownership without indemnification.

- 14) Council of Ministers Decree No. 145 of 24 July 1951 concerning the replotting of agricultural and forest management real property in producer cooperative towns (cities).

1952

- 15) Decree with the Force of Law No. 4 of 1952 concerning the transfer of certain buildings into state ownership, except for those exempted from under transferring building property to the state based on the provisions of Decree with the Force of Law No. 28 of 1957.

1956

- 16) Decree with the Force of Law No. 15 of 1956 concerning land settlement and replotting.

1957

- 17) Law No. 5 of 1957 concerning citizenship.

- 18) Decree with the Force of Law No. 32 of 1957 concerning the proprietary situation of persons who illegally left for abroad after 23 October 1956, except for pieces of property whose ownership was transferred to family members entitled to inherit such property pursuant to Paragraph 3.

- 19) Decree with the Force of Law No. 52 of 1957 amending Decree with the Force of Law No. 10 of 1957 concerning the settlement of ownership and use conditions related to agricultural real estate.

1958

- 20) Decree with the Force of Law No. 13 of 1958 amending Decree with the Force of Law No. 28 of 1957 concerning certain issues related to buildings transferred to state ownership.

1959

- 21) Decree with the Force of Law No. 24 of 1959 concerning the establishment of areas suitable for large scale agricultural farming plants.

1960

- 22) Decree with the Force of Law No. 22 of 1960 supplementing and amending Decree with the Force of Law No. 24 of 1959 concerning the establishment of areas suitable for large scale agricultural farming plants.

1965

- 23) Decree with the Force of Law No. 20 of 1965 amending the rules for offering land.

24) Decree with the Force of Law No. 21 of 1965 supplementing Decree with the Force of Law No. 22 of 1960.

1967

25) Law No. 4 of 1967 concerning the further development of land ownership and land use.

1971

26) Cabinet Decree No. 31 of 5 October 1971 concerning certain issues pertaining to lots owned by citizens.

27) Cabinet Decree No. 32 of 5 November 1971 concerning certain issues pertaining to housing and recreational property owned by citizens.

1987

28) Paragraphs 30-32 and 39 Section (4) of Law No. 1 of 1987 concerning land.

APPENDIX 3

To Law No. 25 of 1991

Average values of various types of property shall be taken into consideration when determining the extent of damages suffered:

a) On the basis of the area of real estate (housing units, shops, workshops, vacant lots in built-in areas):

[Location]	Forint/square meter value as a basis of indemnification
In Budapest pursuant to present rental zones	
Zone 1 (+ 25%)	2,000
Zone 2 (+ 10%)	1,500
Zone 3 (normal)	1,000
In cities pursuant to present administration classification	800
In other settlements	500
Vacant building lots in built-in areas	200

b) Relative to firms, depending on the number of permanent employees

Number of Employees	Value To Serve as a Basis for Indemnification (in thousands of forints)
0 - 2	150
3 - 5	500
6 - 10	700
11 - 20	1,000
21 - 50	1,700
51 - 100	2,500
100 or more	5,000

LEGISLATIVE INTENT

To Law No. 25 of 1991

GENERAL INTENT

On several occasions during the past five decades, in the course of changing periods of history, various state actions infringed upon the private property of citizens.

In conjunction with the system change, former owners expressed a strong need to remedy former injuries and private property damages they unfairly suffered. It is the moral duty of a state which recognizes and protects private property to take action and provide financial indemnification to those who suffered injuries in their property.

In the interest of developing appropriately settled ownership relations in a modern market economy, and to discontinue uncertainty relative to the ownership situation, the state intends to remedy the earlier private property injuries suffered not by returning (reprivatizing) the objects that constitute property, but by providing partial property indemnification to former owners.

This solution is justified by the nation's present ability to assume a burden, as well as by the circumstance that in the past not only property owners, but also individuals who did not own property suffered injuries. The financial implications of these injuries continue to affect their present living conditions. These cannot be remedied even on a partial basis. For this reason, indemnification is limited both in time and extent.

The Law declares a right to be indemnified for injuries suffered on the basis of legal provisions promulgated after 1 May 1939. Rules for indemnification for injuries suffered after 8 June 1949 are established in the framework of this Law, while injuries suffered prior to that date will be remedied on the basis of a law to be created by a certain date, using principles identical to those contained in this Law.

In order to facilitate calculations and to avoid disputes arising from such calculations the Law defines the original (at the time of expropriation) amount of damages suffered in the form of flat rates. Only a small group of people can receive full indemnification. This is so in part because of the flat rate calculation of damages, but in addition to that, it was also appropriate to impose a limitation as a result of which the rate of indemnification declines as the value of expropriated property for which indemnification is claimed increases. Maximum limits for indemnification on a per person and per piece of property basis also had to be established.

Indemnification will be made in the form of interest bearing negotiable securities and not in the form of cash because even the limited amount to be paid out is huge, and because the worth of indemnification must be protected against inflation.

Special rules for arable land were both justified and necessary. There is a limited supply of arable land, and arable land has an income potential that differs from average property and constitutes property of a peculiar legal character. The calculation of damages suffered in, and indemnification to be paid for arable land property demanded a solution different from what could be applied to property in general. By establishing a requirement that arable land subject to indemnification be sold at auction to entitled persons, the Law provides a solution which permits the law of supply and demand to prevail when indemnification vouchers are exchanged. This solution also encourages the evolution of the market value of arable land.

SECTION BY SECTION ANALYSIS

Paragraph 1

Paragraph 1 of the Law declares that the state commits itself to indemnify natural persons who suffered injuries in their private property.

The Law intends to discharge obligations incurred as a result of injuries inflicted in different periods of history, based on various ideological and political principles and in various ways, in due regard to the situation that has evolved after the passage of a long period of time—including some irreversible changes, “renewed, by applying uniform principles under new legal authority, to a new extent and under new conditions (*novatio*).”

A rational limit had to be established regarding the retroactive effect of the obligation. Although injustices also occurred in prior history, the remedying of these today would be both impossible and unnecessary.

It is the intent of the Law to remedy injuries suffered as a result of legal provisions created after 1 May 1939.

A number of factors justify the establishment of that date as the threshold. On the one hand, this threshold ensures that persons who still live among us and who once suffered injuries, and who, together with their direct descendants, still suffer the consequences of those injuries receive indemnification to which they are entitled. At the same time, there is no realistic possibility to remedy possible injustices suffered by members of two prior generations. In contrast, it is still possible to review and to formulate retroactive judgment concerning the era that began on 1 May 1939. The so-called second Jewish law promulgated on 5 May 1939 was the first legal provision to arbitrarily violate on an ideological basis the inviolability of private property and the principle of equality among citizens.

In addition to establishing a state obligation to indemnify damages suffered beginning on that day, the Law provides for the phased implementation of indemnification, in due regard to the country's economic situation and limited performance capacity. Consistent with this principle, injuries suffered on the basis of legal provisions created after 8 June 1949 will be remedied in the

first phase. The National Assembly elected on the basis of antidemocratic processes in 1949 convened on that day. Legal provisions created in that period no longer contained the usual nationalization measures, but instead aimed for the systematic liquidation of private property and constituted politically motivated acquisitions of property with the character of reprisals on part of the state.

Injuries suffered on the basis of legal provisions created during the period prior to 8 June 1949 will be remedied by a law to be created by 30 November 1991, based on principles identical to those contained in this Law. Appendix 1 of the Law enumerates the legal provisions created in that era. These will serve as the basis for indemnification.

As its title indicates, the Law applies to the partial indemnification of damages caused to the property of natural persons, citizens [as published], and does not settle damages caused to the property of legal entities. This is so because on the one hand, a majority of these legal entities can no longer be found, while on the other hand separate laws settle property claims established by a certain group of legal entities, such as autonomous local governmental bodies, churches and social security.

Paragraph 2

Only natural persons may establish claims for indemnification provided under this Law. When this Law takes force, an entitlement to receive indemnification vouchers may be established by Hungarian citizens, just as by persons who by now have become foreign citizens, but who were Hungarian citizens at the time the injuries were suffered, and further: by persons who prior to suffering of injuries were stripped of their citizenship, and by persons who do not hold Hungarian citizenship but who were permanent residents of Hungary as of 31 December 1990. The latter provision recognizes Bulgarians, Poles, etc. who retained their foreign citizenship, but who have lived in Hungary for decades and suffered injuries identical to those suffered by Hungarians.

The Law provides for the enforcement of an indemnification claim not only by persons directly affected as a result of the application of the enumerated legal provisions, but also to the descendants of owners, or lacking descendants, to the former owners' surviving spouses. In regard to the indemnification of a former owner's descendant or surviving spouse, however, the inheritance rules of the Civil Code of Laws could not be applied for obvious reasons, because property taken away from a former owner prior to his death could not be made part of his bequest. Further, applying legal provisions pertaining to inheritance—rules pertaining to ancestral property, widows' rights, inheritance based on wills, etc. in particular—would expand the constituency entitled to indemnification—a matter voluntarily undertaken by the state—to an extent that it would exceed the present load bearing capacity of the country. This would also

endanger the rapid achievement of the goal established as part of the Law: the settlement of ownership conditions.

Considering the above, the law establishes *sui generis* rules, which extend to descendants based on considerations of fairness, but only in equal proportions among the descendants, to the extent to which their ascendant would have been entitled, and provided that a descendant cannot claim the share of a deceased descendant of the same generation. Thus, for example, if one of the descendants of a former owner deceased without leaving further descendants, the still living descendant(s)' entitlement to indemnification does not extend to the share of the deceased descendant.

Paragraph 3

In order to determine the amount of indemnification due on the basis of the Law, it is necessary to determine as a first step the extent of damage suffered.

The Law defines the extent of damage in flat rates with respect to the three types of property in which the application of the above mentioned legal provisions characteristically caused injury. Thus the Law provides flat rates for damages suffered in real property, enterprises and arable land. Practical considerations guided the establishment of flat rates for determining the extent of damage caused. It was apparent that by now the exact extent of damage incurred 30-40 years ago could not be determined, or if it could, such calculations would be highly debatable. The inclusion of the value of movable property related to a given real property, enterprise or arable land as part of the flat rate which expresses the extent of damage also reflects an endeavor to simplify matters, and to avoid unwarranted, time consuming law suits and disputes. This was also justified by the fact that even if the value of real property could be established with a certain degree of accuracy based on contemporary sales agreements and assessment records, proving the value of movable property found on real property would not be possible under any circumstance.

Paragraph 4

The nation's capacity to carry a burden does not permit the full reimbursement of damages. Therefore the Law prescribes a fair method of degressively indexed tiers and defines the maximum amount of indemnification that may be paid per piece of property and per person entitled to indemnification.

Paragraph 5

The Office having jurisdiction issues indemnification vouchers in the amount to be indemnified pursuant to Paragraph 4 to the natural person who proves his entitlement.

The indemnification voucher is a security which embodies a peculiar right. It is based on Paragraph 338/C of the Civil Code of Laws. Consistent with the definition of the indemnification voucher as a security

redeemable on sight, the Law enables the transfer of indemnification vouchers to both natural persons and legal entities. Thus, anyone who acquires an indemnification voucher may use the voucher for the purchase of state property, irrespective of whether the holder of the voucher complies with the criteria established in Paragraph 2 of the Law.

The law intends to preserve the value of indemnification vouchers by rendering these as interest bearing instruments. In a manner different from bonds and other securities, the interest—just as the indemnification voucher itself—does not increase the volume of money in circulation. For this reason interest accrued at a rate of 75 percent of the prevailing basic central bank interest rate is added to the face value of the indemnification voucher in the form of capital. A number of reasons justify the application of this interest rate. One the one hand, the relatively low interest rate stimulates the holders to quickly make use of indemnification vouchers, thus reducing possible threats presented by the presence of indemnification vouchers to the evolving securities market. On the other hand, it was appropriate to set the interest rate near the rate by which the value of productive capital goods which may be acquired with indemnification vouchers appreciates. The rate by which the value of capital goods increases falls well behind the inflationary price increases of consumer goods or the amount of interest that may be paid on deposits. The state pledges productive capital goods which it owns as collateral for the indemnification vouchers. For this reason a disproportionate difference between the appreciation of capital goods and the interest earned on indemnification vouchers would be unwarranted.

In order not to disadvantage persons entitled to indemnification as a result of possible delays in judging claims for indemnification vouchers, the Law determines the date when interest begins to accrue independent from the actual date of issue of indemnification vouchers.

Redemption of indemnification vouchers is stimulated by authorizing the payment of interest for a certain period of time only: for three years starting on the date when an indemnification voucher is issued.

Paragraph 6

The Law enumerates data that must appear on indemnification vouchers. This enables a clear cut determination of the value of the voucher and describes use and transfer conditions.

Paragraph 7

Not unlike a note, the indemnification voucher constitutes a demand. But the indemnification voucher authorizes its holder to purchase state property for the face value of the voucher plus accrued interest, and not for collecting cash. Purchase of state property may take place whenever a state enterprise is transformed into a business organization, or when pieces of state property

are sold directly. Under the first alternative, an indemnification voucher may be exchanged for the stock (business share) of reappraised enterprise assets pursuant to the provisions of Law No. 13 of 1989 [Law on Transformation]. The second alternative permits the purchase of pieces of property (businesses) to be privatized and sold in public auctions. Such purchase could be made pursuant to rules provided in Law No. 74 of 1990 [Law on privatization of state enterprises engaged in retail trade, hospitality industry and consumer services].

The Law also enables the acquisition of ownership rights to arable land in exchange for indemnification vouchers. In certain instances, and in due regard to certain considerations, the Law also provides for the acquisition of property through the purchase of arable land.

Persons entitled to indemnification may use their indemnification vouchers primarily for the acquisition of types of property mentioned above. It was necessary however, to provide additional use opportunities for entitled persons.

Thus, indemnification vouchers may be used to pay for state owned housing, or for housing which is transferred free of charge to the ownership of autonomous local governmental bodies subsequent to the effective date of this provision of the Law. As a result of this solution the Law does not burden local governments which acquire property for a consideration of value by making the acceptance of indemnification vouchers as a method of payment obligatory, and does not establish such an obligation with respect to local governments which even though free of charge, have acquired their property prior to the effective date of this Law. Viewed from another angle, however, local governments ordered to accept indemnification vouchers may use those vouchers in the course of privatizing state property.

The provision which restricts the use of indemnification vouchers for the purchase of housing to entitled persons and to the use of only those indemnification vouchers to which such persons are entitled serves as a guarantee to the seller of housing. Accordingly, indemnification vouchers purchased from another person cannot be used for the purchase of housing.

The possible use of indemnification vouchers is expanded by two additional considerations. In certain borrowing transactions indemnification vouchers must be considered as the borrower's own financial resource, and based on the provisions of separate law, indemnification vouchers may be exchanged for a sum annuitized for life.

By providing multipurpose use opportunities the Law also serves the purpose of enabling certain larger organizations (local governments, financial institutions, social security, producer cooperatives) to utilize the accumulated indemnification vouchers in a more concentrated and more efficient way in the course of state property privatization. This intent is realized by the provisions of Paragraph 8 of the Law.

Paragraph 8

Ensuring that indemnification vouchers in circulation are exchanged at a pace consistent with the pace of state property privatization is of fundamental importance. This is so because property subject to privatization serves as collateral for indemnification vouchers.

For this reason the Law authorizes the Cabinet to suspend the opportunity to redeem indemnification vouchers at the AVU's recommendation. Various serial numbers applied simultaneously with the issuance of indemnification vouchers, as mentioned in Paragraphs 5-6 of the Law also serve the purpose of appropriate pacing.

But the limitation on the exchange of indemnification vouchers may be enforced only temporarily, and only in a way that suspension would not result in unwarranted discrimination against the various owners of securities or in disadvantages from the standpoint of interest earned. The fact that suspension constitutes only a possibility must be underscored. It constitutes a guarantee to operate under an unexpected situation in which the possible shortage of property on the supply side could adversely influence the sales value of indemnification vouchers.

Pacing of the use of indemnification vouchers must be ensured not only on the "buyer" side, but also on the supply side. For this reason, the conditions established in the framework of the Law delegate the authority to determine the extent to which indemnification vouchers may be used in the framework of specific transactions under AVU authority. As a result of this provision an opportunity is established by which the AVU can sell pieces of property owned by the state well in excess of the 10 percent and 20 percent lower threshold limits established in the framework of the Law, to larger organizations which accumulated indemnification vouchers based on the multipurpose use provided for in Paragraph 7, and of course also to other persons entitled to hold indemnification vouchers. This also serves the purpose of the earliest possible "exhaustion" of the circulating supply of indemnification vouchers.

Paragraph 9

Reprivatization is not the purpose of this law. Partial indemnification is. While maintaining and not exceeding this principle, the law provides prepurchase rights to a certain group of former owners. The grant of prepurchase rights was regarded as appropriate because full indemnification could not be provided for reasons stated in the general intent, and because claims could be made for the requisition of property that may still be found in its original condition. This opportunity does not represent reprivatization either, it merely ensures a possibility for an entitled person appearing with his indemnification voucher to enjoy a civil law right to prepurchase his property vis-a-vis other entitled persons.

Exceptions enumerated in the Law ensure the feasibility of enforcing the prepurchase right. These exceptions rule out conflicts with similar prepurchase rights granted in the preprivatization law and establish a primary right for lessors residing in state autonomous government [as published] housing vis a vis the prepurchase right granted in this Law. For similar reasons the prepurchase right granted in the framework of this Law does not apply whenever the AVU sells the right to acquire the former property of the person entitled to indemnification, or sells membership in a company established as a result of contributing such property.

Paragraph 10

The law assigns authority of the first instance to conduct indemnification proceedings to county (Budapest) Offices. Decisions of the office acting in the first instance may be appealed to the national damage claims office acting in the second instance. The decisions of the national Office are final. In order to protect environmental considerations the authority charged with the protection of the natural environment takes part in the workings of the Offices.

Consistent with the Constitution, the Law provides for the judicial review of final decisions rendered by the national Office. Courts are authorized to review and change such decisions in full.

Paragraph 11

Indemnification claims must be filed within 90 days, according to the Law. This time period is needed to permit entitled persons to consider their claims, at the same time, however, this time period is also sufficient for such consideration. It would be unnecessary to provide for a longer period of time for consideration, because that would unnecessarily prolong the assessment of actual damage claims, and as a result of that, the entire proceeding. This then would result in continued legal uncertainty. The Law establishes the jurisdiction of Offices consistent with prevailing legal principles. If the property claimed includes real property, the office in whose jurisdiction the real property lays has jurisdiction. The Budapest Office has jurisdiction over claims filed by foreigners. This is consistent with prevailing rules relative to similar situations which proved to be appropriate.

The Law permits that all claims filed by any entitled person be dealt with in a single proceeding. Therefore, if more than one piece of real property is involved among the assets to be indemnified, and as a result of which more than one Office could have jurisdiction, the Law grants the jurisdictional choice to the entitled person.

Paragraph 12

An indemnification proceeding is based on a petition. A claimant surrenders his right to indemnification if he fails to submit a petition within the 90 day period specified in this Law. In case the claimant's failure to act occurred as a result of no fault of his own, the request for

verification provisions of the law providing general rules for state administrative procedure may be applied.

In order to prevent prolongation of the proceeding the Law forces claimants to expedite as much as possible the successful outcome of the proceeding conducted to their benefit. In proceedings involving the release of arable land it is in the joint interest of both the business organizations and the entitled persons to familiarize themselves with indemnification claims. For this reason, the Office informs the affected organizations summarily of all the indemnification claims it received.

General rules for state administrative proceedings provided for in Law No. 4 of 1957 apply to the proceedings of the Offices, with the notable exception That the 30 day period for handling cases is extended to six months for purposes of this Law. It is apparent that the normal case handling period is unfair and insufficient in regard to the settlement of cases arising under this Law.

The Office is authorized only to examine the foundations of entitlement to indemnification and the extent of damage. It has no authority to render decisions with respect to ownership. If the affected parties fail to reach an agreement, disputes of this nature may be settled in the course of civil judicial proceedings. In certain instances proceedings conducted by other authorities may be required for obtaining proof. The Law mandates the suspension of proceedings if the claimant proves that he has initiated the necessary preliminary proceedings.

The character of proceedings justified the exemption of such proceedings from under the payment of dues.

Paragraph 13

In Paragraphs 13-28 the Law provides special rules for the determination of indemnification claims relative to arable land. These rules also deviate from the general procedural order. Thus a peculiar rule prevails relative to the determination of the extent of damage. In this regard the cadastral net income derived from arable land serves as the starting point. Since actual land market conditions have not yet evolved, the 1,000 forint per Gold Crown value—or the quadruple of that amount in case of forest land—as shown in the Law should be regarded only as a unit of accounting.

Auxiliary rules to determine the value of land are provided for instances in which the former cadastral net income of a given land area cannot be determined.

Paragraph 14

The extent of damage is determined based on a comparison of the Gold Crown value of two pieces of land and the negative balance incurred by the former owner if the former owner received land in exchange for the arable land or forest land he owned. Similarly, the amount of indemnification derived as a result of degressive calculations for arable land must be reduced by the amount of compensation (e.g. redemption) the former owner received for the arable land that was taken away.

Paragraphs 15-16

Land transferred to the ownership of cooperatives, or to the ownership of the state, and as such transferred for use to cooperatives as a result of applying the laws under the authority of this Law, serves as the primary collateral for the satisfaction of indemnification claims aiming for the acquisition of arable land. In order to secure this collateral, cooperatives are obligated to designate such lands following receipt of notice of indemnification claims pertaining to land, and must use such notice as the basis for designating land. Any failure to act in this relation must not be to the detriment of entitled persons, therefore, if a cooperative fails to designate land within the period specified in this Law, all land areas owned by the cooperative must be regarded as having been designated.

Similarly, a provision of the Law which sets the average Gold Crown value of designated land areas in the context of the Gold Crown value of a cooperative's other land areas serves to protect the interests entitled persons.

The practical means by which land related indemnification claims are satisfied is a peculiar right to purchase, tied to conditions and based on law.

Paragraph 17

The law also observes the interests of business organizations in prescribing the establishment of a land bank based on the number of members or employees such organizations have. The land bank enables cooperatives (state farms) to pursue farming activities on the one hand, and enables members and employees of these organizations to acquire arable land of an appropriate size in the course of subsequent distributions of assets, on the other. At the same time, the restrictive rule which prevents the withdrawal of most or perhaps all land to create a land bank in places where insufficient arable land is available serves as a guarantee to entitled persons.

In order to prevent abuse, the legislative proposal defines the criteria by which persons may be regarded as members or employees from the standpoint of creating a land bank.

Paragraph 18

A provision by which arable land within national parks, areas governed by international agreements and in areas subject to intensive protection cannot be released at all, and that lands in protected areas may be released only with the concurrence of the authority charged with the protection of the natural environment, and even then, only if other land areas do not suffice for the satisfaction of all indemnification claims has been incorporated with the intent of protecting natural values. In order to continue the deliberate protection of the natural environment the Law extends the restriction to areas that are not protected, but which are regarded as being protected.

Since considerations to protect the natural environment significantly limit land use possibilities, the Law protects

the claimant by requiring that an advance notice be provided to the claimant concerning land use restrictions.

In due regard to the large number of protected historical buildings that may be found in the country which originally served agricultural purposes, and the utilization of which requires an appropriate surrounding land area, the Law prohibits the designation of such land areas for indemnification purposes.

Paragraph 19

It is not the intent of this Law to assign the burden of satisfying indemnification claims involving arable land exclusively to cooperatives, even though a decisive part of arable land is owned by cooperatives. For this reason, the Law guarantees that state owned land will also be used to a certain extent to satisfy indemnification claims.

Paragraphs 20-22

It is the intent of the Law to resolve the sale of land by establishing equal conditions for all entitled persons to acquire land, while on the other hand, lacking an actual land market, it is the intent of the Law to create a situation which encourages the evolution of the market value of arable land.

This dual purpose is served by including auctioning in the framework of the indemnification process, prior to the exercise of the right to purchase. The rule which requires that the sale of arable land designated for indemnification purposes takes place with the participation of entitled persons creates a competitive situation among participants. This serves the purposes of both indemnification and privatization.

The Law establishes equal conditions for entitled persons in terms of participating in auctions (purchase at auction) and thus for the opportunity to acquire land, without distinguishing between assets that have been confiscated. Thus not only former land owners, but also the members of the affected cooperative and local residents entitled to indemnification enjoy the right to take part in the auctioning, and to purchase land in the event that further conditions stemming from the need to utilize arable land exist.

An official authorized by the Office having jurisdiction at the headquarters of a cooperative affected by the indemnification requirement involving arable land conducts the auction in the presence of a notary public. Since no specific parcels of lands would be designated prior to auctioning, bids would be entered not directly for certain parcels of arable land, but for Gold Crown value, in part using the traditional method based on the upset price (3,000 forints) established by law, and in part, lacking an offer at the upset price, by using a continuously decreasing upset price to a minimum of 500 forints per Gold Crown value.

Entitled persons whose bids have been accepted may exercise their right to purchase in regard to parcels of

land chosen by themselves. Detailed rules for this process are contained in the implementing decree to accompany this Law. The need to formulate rational ownership conditions supports that provision of the Law which provides prepurchase rights in the course of auction for land surrounding detached farms to owners of detached farms entitled to indemnification.

Paragraph 23

In creating special rules relative to arable land, an effort was made to find a solution which is acceptable to both the entitled person and to residents of villages, and which also serves the purpose of utilizing arable land, in addition to the goal of settling ownership conditions. For this reason, the Law grants the right to purchase only to those entitled persons who ensure the utilization of the acquired land in a manner consistent with the purpose of such land.

The decision to be made by entitled persons regarding the exercise of the right to purchase is strongly influenced by strict rules provided as part of the Law which deal with the withdrawal of acquired land from agricultural production or the sale of acquired land.

Paragraph 24

The Law establishes preferential rules for entitled persons who intend to cultivate the acquired land themselves as agricultural entrepreneurs. Encouragement in this regard is provided by an authorization for the issuance of vouchers which may be used in the same way as indemnification vouchers. These vouchers are available in the form of agricultural entrepreneurial support for the difference between the amount of actual damage suffered and the amount paid in the form indemnification (but not exceeding 1 million forints).

Possible abuses with respect to such support payments are sanctioned by the Law in the form of converting such support into loans and by placing liens on property acquired as a result of support funds.

Paragraph 25

The provision regarding the reimbursement of the increased value of arable land not expressed in terms of Gold Crown value, as offset by state subsidies, prevents the possible groundless enrichment of entitled persons, and protects the interests of the auctioning seller.

The nation's limited capacity to bear a burden warrants the requirement that entitled persons also accept a burden along and in conjunction with indemnification. For this reason, costs incurred in the course of assigning arable land, the development of the land as an independent piece of real property and the recording of such real property are covered by the entitled person.

Paragraphs 26-28

The Law enables cooperatives to freely use indemnification vouchers received in exchange for arable land released to the entitled person in the exercise of his right to purchase. Cooperatives may use such vouchers to acquire assets released from under state ownership which are required for the pursuit of agricultural activities.

With respect to arable land managed by state farms and owned by the state, and included as part of the property to serve indemnification purposes, the Law applies the same rules as those applicable to lands owned by cooperatives.

With respect to state owned arable land subject to auctioning in excess of land areas for which indemnification claims have been filed, the Law provides an unconditional right to entitled persons to purchase at auction.

While a cooperative may freely utilize indemnification vouchers received in exchange for arable land it owned, indemnification vouchers received in exchange for state owned land used by cooperatives or managed by state farms logically revert to the state.

Sejm Resolution on Abortion

*91EP0616C Warsaw MONITOR POLSKI in Polish
No 18, 31 May 91, Item No 120 p 151*

[Resolution of the Sejm of the Republic of Poland dated 17 May on the social ramifications of abortion]

[Text] The phenomenon of abortion, which in Poland is of massive scope, is among the social disasters of our time. It has given rise in society to a dangerous attitude of disregard for the value of a conceived human life and an attitude of a lack of responsibility for one's own deeds. A change in this state of affairs is therefore necessary. The legislative attempts and drafts for a bill on a referendum that have been submitted to the Sejm of the Republic of Poland cannot, however, lead to a fundamental change in attitudes toward conceived human life and its protection, which ought to be the goal. The drafts for resolutions "on the legal protection of the conceived child," and "on the right to parenthood, the protection of the conceived human life, and the conditions of admissibility of abortion" were developed in an atmosphere of great tension and arguments over world views, without sufficient attention to legal consequences. Numerous mutually contradictory minority motions have created the risk of approving an internally contradictory law. In this situation, the final outcome of voting could bring forth a law which will satisfy no one, and whose effects cannot be foreseen. We believe that the rebuilding of respect for human life and the feeling of responsibility for parenthood require simultaneous actions in many directions to build a long-term, truly effective social policy. Considering the above, the Sejm has determined not to consider either the draft for a resolution on a referendum, or the two drafts for laws which have been submitted to the High Chamber. At the same time, the Sejm recognizes that it is necessary for the government to prepare and submit to the Sejm a plan of action which would increase the level of effective care for mothers, children, and families; to develop a program of sex education and preparation for family life; for the Constitutional Commission to consider a draft of a regulation on legal protection of a conceived human life in the fundamental law; and to change the 1950 law on the doctor's profession that permits the performing of abortions in private offices. The Sejm finds that the law dated 27 April 1956 requires abrogation as quickly as possible. To this end, it requests of the government that it determine the legal possibilities of abrogation of the above-mentioned law and present the status of work on the new criminal code as regards the matter of abortion. The Sejm expresses the conviction that such actions can augur the mastery of the social disaster of abortion, positively affecting popular attitudes and, at the same time, creating favorable conditions for responsibility for human life.

Marshal of the Sejm, M. Kozakiewicz

Sejm Resolution on Environmental Protection Law

*91EP0616B Warsaw MONITOR POLSKI in Polish
No 18, 31 May 91, Item No 119 p 150*

[Resolution of the Sejm of the Republic of Poland dated 10 May on the implementation of the Law on Protection and Structuring of the Environment]

[Text] The Sejm has completed three evaluations of the implementation of the Law on Protection and Structuring of the Environment, approving two resolutions, on 20 June 1985 and 29 January 1987, and the declaration of the Marshal of the Sejm from May 1988. At present, the new Sejm of the Republic of Poland has for the first time engaged in a thorough debate on state ecological policy, evaluating the implementation of the standing Law on Protection and Structuring of the Environment. The effects of 11 years of operation of this law, approved in January 1980, are slight. The processes of degradation of the natural environment in Poland have not been put in check; moreover, those processes have strengthened and continue today. Decreases in the quantity of pollutants deposited in the environment in recent years are the result above all of the limiting of production. Poland continues to hold the leading position in Europe in quantity of sulphur dioxides and nitrogen oxides released into the atmosphere. The negligible implementation of the law is only to some extent the result of imperfections in its regulations, which have been and will be amended. The ecological consciousness of society, and the place which, as a result of that consciousness, the government and the Sejm assign to environmental protection in the hierarchy of socioeconomic goals have fundamental importance here. That consciousness has a primary influence on the execution of the rights and responsibilities arising from the law. In the opinion of the Sejm, it is above all the lack of implementation and execution of the existing Law on Protection of the Environment, and to a much lesser extent the imperfection of that law, which affects the scant results in this area. Many of the conclusions from the Sejm resolutions of 1985 and 1987 remain current, though our country's transition to a free market economic system does require a new look at the place of environmental protection in it. At present, a philosophy of economic development coordinated with environmental protection, called eco-development, takes on fundamental importance. In that philosophy, priorities are directed toward the prevention of the degradation of the environment, rather than toward the counteraction of its detrimental effects; toward a penetrating consideration of the type and scale of social needs of the present and future generations; and toward an appreciation of the significance of nature protection in itself, and as a factor which makes socioeconomic development possible. The legal-administrative and economic systems should be subordinate to the principles of eco-development. The Sejm awaits a packet of new bills concerning environmental protection. A change in the system of administration in this area must follow in the wake of amended laws. All these changes will not have

the appropriate dynamic if society's ecological knowledge and consciousness do not grow, if the system of monitoring the observation of the law is not strengthened, and if the importance of nongovernmental ecological groups and organizations does not increase. Therefore, these problems should be the subject of particular attention from the Sejm and government and local administration. The Sejm of the Republic of Poland expresses the hope that a new law on protection of the environment and nature will be the next step in the direction of creation of a modern system of environmental protection in Poland. However, 11 years of experience with the implementation of the Law on Protection and Structuring of the Environment show that effective implementation of that law will in practice be very important and difficult too. Therefore, the Sejm, evaluating the implementation of the Law on Protection and Structuring of the Environment, turns to the government for an urgent review of legal-administrative mechanisms that will guarantee the observation of economic law.

Marshal of the Sejm, M. Kozakiewicz

Sejm Resolution on Ecological Policy

91EP0616A Warsaw MONITOR POLSKI in Polish No 18, 31 May 91 Item No 118 pp 149-150

[Resolution of the Sejm of the Republic of Poland dated 10 May concerning ecological policy]

[Text] Taking into consideration the fact that the state of the environment has been worsening for a number of years; that already one-third of the nation lives in regions of ecological danger; that the human life span in Poland is steadily shortening; that the incidence of disease caused by the poor state of the environment is rising; and that the number of children with decreased mental ability is increasing in the regions of greatest pollution, the Sejm of the Republic of Poland recognizes environmental protection as a matter of the highest importance, which must be addressed urgently, and with great determination, by the whole of society. Particular responsibility is incumbent on the central organs of government administration and on local government organs. Ecological policy should lead to the formulation of principles of a socioeconomic policy for the year 1992 and following years, in accordance with the principles of eco-development, or balanced development. Such development should be based on the foundations of an ecological and social market economy. These actions should lead to an assurance of individual ecological security for the residents of Poland. A plan of national development should be one of the fundamental instruments of assuring eco-development. It is essential that government policy in the areas of energy, industry, motorization, agriculture, health, education, science, and information are in accordance with the principles of ecological policy. This means that in economic policy,

ecological criteria must acquire equal rank with economic criteria. The National Ecological Policy submitted by the government (a document from November 1990) correctly formulates a whole range of principles, goals, and directions for future action. At the same time, it should take into account the following:

- The urgent need to complete legislative work on the packet of ecological bills, along with the issuing of appropriate executive orders.
- The presentation of government proposals for the protection of the environment and the water industry.
- The need to carry out an estimation of environmental losses as a basis for future policy on energy use, forestry, sewerage, and waste disposal; this should bring about the stimulation of proecological behavior by economic units.
- An increase in the State Budget's share in financing environmental protection, particularly for rehabilitating the environment in ecological catastrophe regions.
- The introduction of proecological mechanisms into the taxation system.
- The initiation of work on systems to encourage proecological production technologies in the area of air, water, and land-surface protection.
- The establishment of principles for proecological activities of energy conservation agencies and the motorization industry.
- The establishment of guidelines for licensing the right to utilize natural resources, including the responsibility of recovering raw materials.
- The definition of principles for the formation of the country's ecological security.
- The need to combine environmental protection service with radiological protection.
- An increase in ecological efficiency in the international arena.
- Expanding the list of scientific disciplines to include ecology and environmental protection.
- Development of a system of ecological education and training in elementary schools, high schools, and colleges.

In light of the need for very immediate implementation of a state ecological policy, the Sejm of the Republic of Poland accepts the submission of the document on state ecological policy, mandating that a supplemented and expanded version of the policy be submitted to the Sejm by the end of the third quarter of 1991.

Marshal of the Sejm, M. Kozakiewicz

Sejm Resolution on Direction of Privatization

91EP0528D Warsaw MONITOR POLSKI in Polish No 13, 15 Apr 91, Item No 86 pp 114-116

[Resolution of the Sejm of the Republic of Poland dated 23 February governing the basic direction of privatization for 1991]

[Text] Paragraph 1. Pursuant to Article 2, Paragraph 1 of the Law dated 13 July 1990 on the Privatization of State Enterprises (DZIENNIK USTAW [Dz.U.], No. 51, Item No. 298), the Sejm of the Republic of Poland establishes "The Basic Directions of Privatization for 1991," contained in the appendix to this resolution.

Paragraph 2. The Sejm directs the government to present a report before the end of August of this year on the realization of the resolution, in particular an evaluation of the financial effects of privatization in the first half of 1991, along with possible proposals on making suitable corrections to the directions of privatization.

Paragraph 3. The Sejm directs the government to submit designs of legal provisions that will make ownership transformations in the state agricultural sector possible before the end of April of this year.

Paragraph 4. The Sejm urges the government to undertake activities to change the teaching programs in the area of economic subjects (the content of the programs and textbooks) so that they would match the changes made in the Polish economy.

Marshall of the Sejm: M. Kozakiewicz

Appendix to the Resolution of the Sejm of the Republic of Poland dated 23 February 1991 (Item No. 86)

Basic Directions of Privatization for 1991

I. The Privatization Strategy

1. Guidelines of the Privatization Policy

The program for 1991 initiates an essential reduction in the participation of the state sector in the national economy and also initiates preparation of the conditions for increasing the tempo of changes in the years 1992 to 1995. In the course of five years, we intend to achieve private-sector participation in the economy at a level close to that which exists in the countries of the European Economic Community.

The privatization strategy depends on the branching out of roads to privatization for various categories of enterprises. Each of these categories will be privatized through special channels, often with the simultaneous exploitation of many privatization techniques. The fundamental line of division will be drawn between large enterprises on the one hand (in this group one sees the 500 largest enterprises according to sold value) and medium-sized and small enterprises on the other hand. Large enterprises demand differentiated, often unconventional techniques of privatization. In the case of most medium-sized and small enterprises, it will be possible to sell them in their entirety or in large part to individual buyers.

In 1991, strong pressure will be placed on small privatization in the expectation of quick effects on supply and a noticeable improvement in the quality of services. This is in accord with the government strategy for stimulating

the economy. However, it demands considerably better privatization services on the local scale through the creation of regional links of the Ministry of Ownership Transformations.

The building of an efficient privatizing apparatus, which will take place in the first half of 1991, is a condition for realizing the above plans. This apparatus will include:

- a) The reorganized structure of the Ministry of Ownership Transformations, in which cells that receive and select proposals will take on fundamental significance.
- b) Privatization staffs appointed in particular departments (founding organs).
- c) Regional delegations of the Ministry of Ownership Transformations.
- d) Privatization agents in voivodship offices.

Parallel to the building of a suitable privatization apparatus and the appointment of interdepartmental working groups, sectoral conceptions defining the policy of privatization in such areas as state agriculture, foreign trade enterprises, the domestic trade network, light industry, the marine economy, mining, energy, banking, insurance, as well as culture and health care will be elaborated. The government will present sectoral privatization guidelines before the end of May 1991.

In a separate document, the government's position on the reprivatization of property taken over as property of the state will be defined.

2. Commercialization of the State Sector

One of the elements of rebuilding the economy's structure is the transformation of state enterprises into companies which have the right to trade, which belong to the State Treasury, and whose privatization will be postponed. The government will observe the principles of voluntary commercialization and establish criteria for the selection of enterprises. They cannot be threatened with liquidation. They must continuously regulate their own obligations. They cannot be enterprises in a monopolistic position or artificially unified forms consisting of many plants. Commercialization will be linked to the formation of supervisory councils made up of groups of specialists on diagnosing and elaborating long-term strategies. This means that the tempo and reach of commercialization must be limited. This will make it possible to fulfill the established criteria which are requisite to the economic suitability of commercialization. The government will submit before the end of March 1991 a general outline for ensuring the interests of the State Treasury and proprietary supervision in commercialized enterprises.

3. The Privatization of Large Enterprises on an Individual Basis

In 1991 privatization will continue in accordance with traditional methods, that is, through public offerings and

other types of limited offerings. Each of the enterprises will be subject to the independent establishment of its price by specialized firms. In the case of public offerings, a prospectus will be prepared in conformity with the requirements of the law on the public exchange of securities. The issues prepared in this manner will constitute the basis for the development of a securities market, especially trade on the exchange.

A group of enterprises will be prepared which can be sold domestically in the form of a public offering in the April-May 1991 period. Before the end of 1991, the sale of as many as 20 enterprises in public offerings is foreseen. These will be companies characterized by good financial condition and promising export capabilities. In 1991, privatization efforts in six to nine of the largest Polish state enterprises will begin. Of this number, the sale of a portion of the capital stock is being planned in four cases.

The sale of about 20 large companies by means of a private offering to one or several investors, including foreign investors, will also be prepared. Among the determinants of the privatization strategy in 1991 is a more active search for strategic foreign investors. In order to efficiently exploit the potential of the Ministry of Ownership Transformations, privatization by traditional methods will be conducted by way of so-called group privatizations, among other things. Sectoral studies, which will aid in the selection of groups of enterprises from particular branches or sectors, will be prepared. These groups will next be privatized by a so-called general coordinator—a large, experienced consulting firm or investment bank hired for the purpose. In 1991, initiation of about 15 group privatizations is foreseen.

4. The Privatization of Small and Medium-Sized Enterprises

About 2,500 industrial enterprises from outside of the group of the 500 largest and nearly 3,000 construction, transportation, trade, tourist, and other enterprises belong to this category. The method of conducting privatization and the desired type of buyers for enterprises of small and medium size will be determined on the basis of their operational profile and the dimensions of the market.

In the first half of 1991, 12 representative offices of the Ministry of Ownership Transformations will be created. They will undertake services related to the privatization process within the framework of the powers that are transferred to them. In the organizational phase, the offices will be limited to performing advisory and informational functions. In the next phase, it is anticipated that decisionmaking powers will be transferred to them in the sphere of services related to small and medium-sized privatization.

The operational ability in the sphere of small and medium-sized privatization will be further enlarged by:

a) A branch plan, that is, standardization of the method of establishing prices for a given branch. In 1991, such a method of operation is being instituted in the field of the consumer-agricultural industry (meat, grain processing, sugar processing), the wood and paper industry, construction, trade, and the printing industry, among others.

b) Close cooperation with the organizations acting on behalf of privatization locally and nationally.

c) Simplification and standardization of procedures and economic-legal arrangements (among others, the elaboration of model agreements).

The acquisition of stocks and shares will be favored by special credit programs, the dividing of part of the price into installments, and the acceptance of bonds of private enterprises as forms of payment (in the case of companies characterized by good financial condition).

In cases justified by the organizational and marketing situation of the enterprise, so-called management contracts will be employed.

5. Privatization by Means of Liquidation

Judging from the numerous proposals coming in regarding enterprises (90 proposals were accepted through the end of January 1991), this should be an intensively exploited path to the privatization of the Polish economy. Privatizing as many as 1,000 enterprises in this way is foreseen in 1991. Conditions for fulfilling these plans are:

a) Sufficient demand.

b) Explanation of procedural questions.

c) The elasticization of the conditions of property rental (tenancies, leasing).

An especially essential question is the trustworthiness of companies with which a founding organ enters into a contract in the name of the State Treasury for the return of property to a rental status. The necessity of overcoming the recession leans toward the creation of financially strong economic entities and active proprietary interests promising rapid market effects and elastic adaptation to the demands of the environment.

Liquidation aimed at returning property to a rental status is indicated for small service enterprises, for example, trade, transport, and design offices. In reasonable cases, enterprises consisting of a number of factories will be divided into smaller organizational units which will be privatized separately. In particular, trade, construction, tourist, and agricultural-processing enterprises will be privatized in this way.

6. Mass Privatization With the Participation of Capital Bonds

The majority of the 500 largest enterprises will be privatized by exploiting additional methods to accelerate

this process: making shares of stock accessible to employees on a preferred basis within statutory limits, multi-year installment sales and exploitation of options, possibly gratuitous allotments of privatization bonds to Polish citizens, the allocation of shares in retirement funds and collective investment funds. In the first half of 1991, the preparatory work that will make possible the initiation of mass privatization in the second half of the year will be going on. The preparatory work includes:

- a) The verification of the group of largest enterprises from the point of view of selecting a minimum of 100 enterprises that belong to the "safe" sphere and which are amenable to mass privatization. The determination of the bond operation's logistics and its technical details (in several variants).
- b) The definition of the role of a collective investment fund in which foreign capital and management is participating.
- c) Verification of potential Polish institutional investors (banks, insurance and retirement funds).
- d) Appraisal of the aftermath of mass privatization in the areas of market balance, the budget, and the capital market.
- e) Preparation of public opinion and popularization of the citizen shareholder.

The allocation of packets of shares of privatized enterprises is being considered for the Social Security Agency. The administration of the shares remaining under the control of the State Treasury will be entrusted to active joint-investment funds which will have the gradual sale of the shares as their goal. A "feasibility study" of mass privatization, which is to be prepared before June 1991, will define the government's final position on the following essential questions: the advisability and potential breadth of bond distribution, the salability of bonds, and the method of allocation in joint-investment funds and other intermediary institutions. A strategy of mass privatization will be selected on the basis of the possibility of political acceptance, economic efficiency, and the minimization of transaction costs.

7. Privatization of Communal Property

The Ministry of Ownership Transformations will facilitate, support, and codetermine the process of privatization of communal enterprises through:

- a) Privatization services as ordered by the gmina administrations. In particular this should concern enterprises that are not public utilities. Regional offices of the ministry will execute the orders.
- b) Various forms of advising and training in the area of privatization, in particular the urgent preparation of a suitable guidebook and other informational materials.

c) The tracing of the course of the privatization of communal property in cooperation with the government plenipotentiary for local government.

II. The Creation of Institutional Structures for the Privatization Process

1. Joint-Investment Societies

The emergence and development of institutions of financial intermediaries will constitute a key element in the institutional infrastructure in which the process of privatizing the Polish economy will be effected. The government will decidedly support the process of their emergence, as a result of which the whole gamut of these types of institutions should appear.

The introduction of joint-investment societies into our capital market is justified in two ways. They will allow investment risk to be reduced, and they will make effective control of the management of enterprises possible.

Societies handling privatization bonds as well as societies or funds collecting money from the population will have to be subject on the legal rigors that protect the interests of a bond investor and the interests of investors in cash. Also, model regulations of funds, statutes of societies, and bank-deposit agreements will be worked out. Obtaining the capital necessary for them to function is the decisive matter achieving the plans of the societies or joint-investment funds.

2. Stock Exchanges

A key element of the privatization infrastructure is the securities exchange. The temporary requirements of the privatization program do not permit the expectation of a natural and evolutionary formation of this institution. Consequently, the state's direct involvement in the process of the exchange's formation is necessary, along with exploitation of the help offered by Western states in this sphere. The state's direct involvement is also necessary considering the high investment costs related to the initiation of an exchange, which cannot be covered by the institution's current income in the beginning period.

The trade of securities on the regional exchanges will be permitted if they meet statutory requirements.

3. The Securities Commission

The appointment of the Securities Commission as a new organ of state administration is essential to the development of the securities market. It will ensure the essential supervision of the market's operations and, at the same time, make it possible for the proper state institutions—the Polish National Bank, the Ministry of Finance, and the Ministry of Ownership Transformations—to coordinate activities aimed at ensuring the balance of supply and demand in this market.

The tasks related to the initiation of the Securities Commission as an institution will be realized by a

separate Office of the Securities Commission within the Ministry of Ownership Transformations. These tasks focus on the preparation of cadres for the future Securities Commission, the elaboration of the principles permitting bonds to be traded, the determination of the range of requirements placed before stockbrokers, the preparation of an examination for them, and finally for the elaboration of an educational system.

Sejm Resolution on Guidelines for Monetary Policy

*91EP0528C Warsaw MONITOR POLSKI in Polish
No 13, 15 Apr 91, Item No 85 pp 111-114*

[Resolution of the Sejm of the Republic of Poland dated 23 February governing the guidelines for monetary policy for 1991]

[Text] Paragraph 1. The guidelines for monetary policy for 1991, constituting an appendix to the resolution, are hereby proclaimed.

Paragraph 2. The chairman of the Polish National Bank [NBP] will present to the Sejm and the Senate a quarterly information paper on the course of the fulfillment of the guidelines for monetary policy in 1991 as well as suitable proposals.

Paragraph 3. Before 15 March 1991, the government, with the participation of the Polish National Bank, will make evaluations and verifications of the solutions aimed at stimulating the economy that have been tried up to this point in credit policy and present them to the proper commissions of the Sejm and the Senate.

Paragraph 4. The Polish National Bank and the Supreme Chamber of Control are evaluating the influence of a favorable credit interest rate on economic processes and will submit their evaluations to the proper Sejm and Senate commissions before 15 March 1991.

Paragraph 5. The resolution takes effect on the day of its publication and has legal force from 1 January 1991.

Marshall of the Sejm: M. Kozakiewicz

Appendix to the resolution of the Sejm of the Republic of Poland dated 23 February 1991 (Item 85)

Guidelines for 1991 Monetary Policy

I. The Goals of Monetary Policy

1. The basic principle of monetary policy will be to allow monetary supply to form at a level at which a surplus will not become an independent inflationary factor nor will a shortage of money make economic processes more difficult.

II. The Monetary Supply and Instruments for Its Control

2. The projection of monetary supply was based on the guidelines of the government's economic policy as well

as on the bank's analyses, which were concerned in particular with the growth of the national income, the rise in prices for goods and services, the magnitude of the budget deficit, and the level of foreign reserves.

On the whole, the money supply will increase in 1991 by about 45 percent in comparison to the amount at the end of 1990.

In connection with the expected continuation of the tendency toward a decline in the share of foreign-currency resources in the general monetary mass, it may be assumed that the increase in the quantity of domestic money will amount to about 61 percent. The share of domestic money in the general monetary resources will grow from about 67 percent at the end of 1990 to about 75 percent at the end of 1991. However, the share of foreign currencies will undergo a reduction. This tendency is a result of the restoration of the standard-value function of money to the zloty as well as a result of more favorable conditions for the investment of savings in domestic money rather than foreign currencies (due to the stabilization of the exchange rate that took place in 1990).

3. A basic component of the growth in domestic monetary resources will be the growth of the monetary resources of the public. It is anticipated that these resources will grow in comparison to the amount at the end of 1990 by about 62 percent in nominal terms (about 23 percent in real terms). The monetary resources of enterprises will grow by about 60 percent (about 21 percent in real terms). Within the scope of the growth in the public's monetary resources, the growth of savings deposits will be quicker (about 76 percent in nominal terms) than cash (about 49 percent in nominal terms). This is related to the observed tendency toward growth in the proportion of savings deposits in the public's monetary resources.

4. The amount of foreign reserves will increase by nearly 10 percent in comparison to the amount at the end of 1990. This is a result of a change in the balance-of-payments situation. Net domestic assets, the basic component of which is credit for the public and economic units and credit for the State Budget, will be the main source of the creation of money. On the whole, net domestic assets will increase by about 63 percent. Due to the current guidelines concerning the budget deficit, the growth in the credit indebtedness of the public and economic units will amount to about 73 percent. The possible growth of the budget deficit beyond what is called for by the plan will require limitations of the currently envisioned scale of credit in regard to economic entities and the public.

5. In order to regulate the circulation of money, the Polish National Bank (NBP) will develop the sale of bonds and, in the long run, treasury bonds as well. The Polish National Bank will conduct an active policy of mandatory reserves with respect to commercial banks in order to adjust their liquidity to accepted guidelines of

monetary policy. The rates of mandatory reserve will be published by the NBP as far as possible in advance. These rates will be preferential for term deposits and, beginning with the second quarter, for demand deposits of the public. At the same time, banks will be able to incur debts to the NBP in the form of discount and secured credit up to amounts defined in agreements with the banks. The central bank will set the discount sum depending on the country's monetary situation. An increase in refinance credit will be maintained in credit determination—in especially justifiable cases—solely in relation to the financing of continued central investments. If there is a threat of excessive monetary demand, the NBP will be able to apply quantitative limitations on the credit activities of commercial banks, provided that these decisions will be given with the appropriate advance notice.

6. In realizing monetary policy, the irregular course of the factors that determine the demand for money will be considered, particularly the movement of prices, which—in accordance with the guidelines—will grow most potently in the first quarter of 1991. In the event that the factors influencing the magnitude of the growth of monetary demand form in a way that diverges from the accepted guidelines, the Polish National Bank, guided by the reorganized goals of monetary policy given above, will adjust demand for money and credit suitably for the situation's development.

III. Deposit-Credit Activity

7. The central bank's interest rate, in other words, the discount rate, will be shaped by the NBP after consideration of the inflation index and the trend in the formation of market interest rates (the international investment market and secondary securities turnover). A variable discount rate, determined on an annual basis, will be employed. Essential changes in the interest rate will be made over time intervals of several months (about half a year) in such a way as to ensure the preservation of an interest level that is favorable in real terms. The rate of refinancing (secured) credit for banks will be set at a level somewhat higher than the discount rate.

8. The development of the banking system, and especially competition, is creating the conditions that will allow the banks to establish the interest rate on the basis of market conditions. In the name of protecting the interests of depositors, the banks will apply the principle of symmetry in setting the interest rate for deposits and credits. To the extent possible, the interest rate established for credits and time deposits should be kept at a level that is favorable in real terms; in other words, at a level that is higher than the index of inflation. In 1991, all the external and internal banking regulations that oppose the principles of full partnership and equality among parties in the formation of relations between banks and their clients will be abolished.

9. The rigorously observed criterion of credit worthiness (including the continuous collection of amounts due and the regulation of obligations, particularly in regard to unprofitable enterprises that have no opportunity to achieve credit worthiness) will be the basic principle of banking operations, which aim for growth in the general level of efficiency as well as for the proprietary and structural transformations that follow from the economic strategy.

10. Banks will extend subvention credits on the basis of agreements with the government within the limits of special lines of credit. The initiation of these credits will be linked to assurances from the budgetary resources to the banks that accounts will be kept current, and that the difference between the interest due and the sum of interest paid by the debtors will guarantee the profitability of the extension of the credits. The government, with the participation of the NBP, will ensure conditions for the efficient functioning of special lines of credit. Budgetary resources, transferred in advance to the banks, may also be a source of special credits within the framework of agreements between the government and the banks. Until the financing principles for housing construction are put in systematic order, the General Savings Bank—first and foremost the State Bank—will commit the collected savings to the extension of credit for housing construction. The government, with the participation of the NBP, will prepare the new system's principles and manner of operation before 30 April 1991.

11. In order to stimulate the expansion of credit, which will herald economic progress, it is necessary to introduce a system of credit guarantees and credit insurance. This will serve to overcome fears of justifiable risk. The minister of finance and the chairman of the NBP are defining rules for creating reserves in the banks from pretax profits in order to cover the amounts due that carry increased risk and which are connected to the bank's activities to promote economic progress and the transformation of the structure of ownership in the economy. The acceleration of the development of small and medium-sized enterprises through the exploitation of the financial resources of the public has essential significance. The Polish National Bank, keeping in mind that—as experience shows—attractive credit initiatives frequently appeal to persons who do not have sufficient security at their disposal to ensure repayment of credit, will in such cases extend guarantees to banks in amounts as high as 60 percent of the difference between the amount of credit and the value of the security.

12. The dynamic growth in the number of banks demands the strengthening of the institutional arrangements that serve to guarantee deposits and, in particular, the public's savings. This concerns both legal regulation and banking practice. For the proper development of credit and banking relations, it is essential that the banks raise the coefficients of solvency and aim at the attainment in 1993 of the parameters generally applied in European banking (the relation of a bank's funds to its

assets in the amount of 8 percent). The NBP is contemplating the possibility of differentiating the burdens of risk, taking into consideration preferences for credit guarantees and the capital shares of the banks.

IV. The State Budget and the Banking System

13. Operation of the State Budget and the budgets of local governments will be realized in the form of a current account. The NBP will conduct the banking operation of the State Budget, but operation of the budget of the gminas will be taken over by commercial banks. In order to cover the budget deficit, the State Treasury will issue securities to be sold at auctions organized by the NBP. Until this form is instituted, the budget deficit will temporarily be financed through the negotiation of credits to the State Budget from the banks under commercial conditions, within the limits defined in the budget law.

14. The minister of finance will issue bonds to cover the cumulative deficit of the State Treasury, together with interest until the day of issue. The possibility of transforming this debt into the right to acquire shares of private enterprises will be considered.

V. The Exchange Rate and Foreign Exchange Policy

15. The maintenance of a stable exchange rate in 1991 turned out to be an important factor in the fight against inflation. This policy will be continued. The fundamental guiding principle of exchange-rate policy is to base the convertibility of the zloty on foreign currencies and to assure the public and enterprises of full access to foreign currencies for the importation of goods and services. The competitiveness of the zloty against the background of the balance-of-payments configuration will be carefully analyzed, especially the influence of the exchange rate on foreign reserves. The fact that since 1 January 1991 the clearing of accounts with the countries of the former first payment zone has been conducted in convertible currencies instead of transfer rubles will also be taken into consideration.

16. Guided by the desire to maintain a stable exchange rate, the NBP will intervene on the domestic currency market (influencing the supply of and demand for foreign currencies) through the exploitation of foreign reserves. The level of reserves maintained will ensure the liquidity of Polish banks in making foreign transactions. The exchange rate policy will be conducted in such a way as to maintain the balance between the supply of and demand for foreign currencies. The principle of stabilizing the zloty's exchange rate will be one of the factors shaping the central bank's interest rate.

17. A new system of clearing foreign exchange accounts between banks will be introduced, rationalizing the management of foreign currencies. The network of banks authorized to conduct foreign operations will be widened significantly. The system of payments and transfers in the exchange of money with foreign countries will be modernized. The administration of foreign reserves by

the NBP will be rationalized through consideration of the criteria of safety, liquidity, and profitability in the management of foreign currency reserves.

18. The public's currency accounts will function according to the principles followed up to this time. The freedom to have accumulated resources at one's disposal will be ensured, as will the safety of deposits in currency accounts. The free exchange of currencies between natural persons will be preserved. In light of previous experience, the minister of finance and the chairman of the NBP will consider the possibility of unifying the official market and the market in foreign exchange offices.

VI. The Development of the Money and Capital Market

19. The development of the money and capital market is a basic condition for the operation of the mechanisms of the money-market economy. Banks will actively support all initiatives that serve the development of these markets. The money market will be created dynamically. The introduction of NBP bonds into economic practice created the bridgeheads for such a market. In 1991, three-month and six-month NBP bonds as well as Treasury bonds will be introduced. This will create a basis for the development of open-market operations on a broad scale. Keeping in mind the needs for the development of a market for money between banks, the NBP will apply lower interest for deposits in the central bank so that banks and financial institutions will be inclined to develop interbank deposits. The NBP will initiate new forms of transferring resources between banks, with particular consideration of the need for seasonal commercial credit in agriculture. This will create the conditions for the formation of a market interest rate.

20. Banks will take part in the creation of the capital market. Activities will be undertaken that aim to ensure the indispensable synchronization between the money market and the capital market. These activities will, on the one hand, depend on the shape of the current monetary policy, so that the policy does not become a barrier to the development of a capital market, and, on the other hand, so that the processes taking place on the capital market will not disturb the monetary balance in the economy.

21. Proprietary transformations will be initiated in the banking sector, as a result of which state participation will be limited and the participation of private capital will be increased. The commercialization and subsequent privatization of state banks and the privatization of the state-cooperative bank, which is being conducted by the government with the help of the NBP, will be carried out in relation to banks that are characterized by an appropriate structure of assets and liabilities.

VII. Rationalization of Banking Services

22. Monetary account-clearing will be modernized and the clearing cycle will be shortened. To serve this end, the banks will undertake certain activities, including:

- The spreading of noncash account-clearing between holders of bank accounts.
- The popularization and spread of checking payments, especially in the form of guaranteed account-clearing checks.
- The development of exchange transactions.
- The dissemination of recognized methods of ensuring the punctuality of account-clearing in agreements entered into by account-clearing contractors as well as between banks and holders of bank accounts.
- The acceleration of the automation of banking procedures.

Banking forms and documents will be simplified, and various types of barriers which prevent the development of checking and noncash payments will be eliminated. Every six months, the Polish National Bank will present an evaluation of the situation in this area to the Sejm.

23. The government and the NBP will intensify their efforts that are aimed at overcoming barriers to the development and functioning of the banking system. A separate telecommunications network will be organized, and the modernization of banking computerization will be accelerated. Computerization of account-clearing within and between banks will contribute to the development and enhancement of the quality of banking services.

24. The change in the economic system and the development of banking demand suitable modifications to the legal regulations, both the statutes referring directly to banks and in relation to those regulations that concern other spheres of economic life. It is most urgent to make corrections that will be necessary to enforce certain essential guidelines of the 1991 monetary policy. A fundamental reconstruction of the legal system of Polish banking in compliance with its functions within the framework of the new economic order will be carried out.

Sejm Resolution on Implementation of Budget Law

*91EP0528B Warsaw MONITOR POLSKI in Polish
No 13, 15 Apr 91, Item No 84 pp 110-111*

[Resolution of the Sejm of the Republic of Poland dated 23 February governing the implementation of the budget law for 1991]

[Text] Paragraph 1. Facing the uncertainty of the external and internal factors that are shaping the economic situation, the Sejm of the Republic of Poland states that the guidelines upon which the budgetary law was based may be burdened by a great mistake. In particular the guidelines concerning the following have aroused doubts:

- The expected rise in the prices of goods and services.
- The account of the state budgetary income.

- The calculation of expenditures in many budgetary areas, the level of which cannot guarantee the satisfaction of the most essential needs.
- The allocation of relatively small amounts of resources to fulfill the actual plans for housing construction.

Paragraph 2. The Sejm urges the Government:

- To conduct another, penetrating analysis of the guidelines that underlie the design of the budget law and to present the conclusions resulting therefrom. The Sejm sees an urgent need to search for opportunities to increase the income of the State Budget and also to increase expenditures. The uniformity of the burden placed on various social-occupational groups for the benefit of the budget requires an especially penetrating evaluation. It is necessary to check whether income from banks, insurance institutions, and the nonagricultural private sector was calculated at too low a level. The increase in expenditures should embrace education and culture. Preschool education demands special protection by the state. It is also necessary to search for resources to subsidize milk, dairy products, and schoolbooks.
- To prepare a program to make portions of the resources collected in the form of currency reserves more accessible for financing the country's development. The activation of these resources should make it possible to increase expenditures for the development of the technical and social infrastructure, including, as the highest priority, the construction of oncological hospitals in Bydgoszcz, Gliwice, and Kielce. This should also make it possible to increase expenditures in support of the process of restructuring productive enterprises and agricultural concerns.
- To analyze anew the correctness of the determination of subsidies for the gminas and to examine the situation of the gminas which find themselves in the most difficult financial conditions.
- To consider the possibility of increasing the resources that should serve to counteract the emerging threat of a further serious decrease in the amount of housing construction. The urgent renewal of credit for construction and for buildings that were recently begun is indispensable.
- To increase the allocations to the voivodes for agriculture by 200 billion zlotys from reserve resources.
- To distribute, within the framework of health care resources, the funds needed to finance the operations of sanatoria, after they are verified by a government-union group.
- To analyze anew the possibility of and conditions for introducing minimum purchase prices for two basic agricultural products: milk and bread grain.

Paragraph 3. The Sejm expects the government to stop the sale of bonds that may be exchanged for shares of privatized enterprises. The continuation of the sale of these bonds in the present situation creates privileges based on nothing, primarily for the wealthiest groups of citizens.

Paragraph 4. The Sejm draws the government's attention to the fact that the creation of the Agency for Industrial Development Incorporated has gone forward despite the decidedly negative opinion of the appropriate Sejm commission. The Sejm orders that fundamental changes in the functioning of the Agency be carried out.

Paragraph 5. The Sejm calls on the government to immediately introduce tariff barriers against the importation of food products that we produce in abundance domestically.

Paragraph 6. The Sejm urges the minister of national education to distribute appropriate sums for scholarships for the students of Lublin Catholic University. These sums should be equivalent to those given at state educational institutions.

Paragraph 7. The Sejm does not approve of the tendency to increase the number of positions in the governmental administration and requires the government to characterize the approaching structure of state administration. Verification of the existing situation should embrace in particular management positions in the central offices, the regional agents of the government, advisors, and so forth.

Paragraph 8. The Sejm expects the government to execute the recommendations arising from the present resolution before the end of April of this year.

Paragraph 9. The Sejm appeals to the chancellories of the Sejm, the Senate, and the president for a renewed analysis of this year's expenditures and for the transfer of possible savings to socially useful goals.

Marshall of the Sejm: M. Kozakiewicz

Sejm Resolution on 1991 Economic-Social Policy

*91EP0528A Warsaw MONITOR POLSKI in Polish
No 13, 15 Apr 91, Item No 83 pp 109-110*

[Resolution of the Sejm of the Republic of Poland dated 23 February governing the guidelines for the economic-social policy for 1991]

[Text] Paragraph 1. The Sejm of the Republic of Poland, perceiving the complexity of the situation in which the work on the economic program for 1991 was proceeding, and in particular the complications resulting from the change in the government and the uncertainty resulting from the changing conditions of trade with the Union of Soviet Socialist Republics, and the lack of a final agreement concerning the reduction of Polish indebtedness, states with alarm and anxiety that:

- Poland's economic situation remains very difficult. In spite of the fact that all the essential legal acts submitted by the government to serve the realization of the economic stabilization program in 1990 were enacted, the results diverge fundamentally from governmental expectations. The recession is much deeper and has a lasting character. Also the living standards

of the main, socio-occupational groups (especially workers in the state sector and farmers) have undergone a larger reduction than was anticipated. Inflation has been reduced but it remains at a high level. Although the realization of the program also brought positive changes (in particular the balancing of the market for goods and services), social opposition to the economic policy that has been pursued until now is growing. This opposition, generally based completely on the pauperization of various occupational groups, can nonetheless lead to the blocking of the economic reform process. It may also make it more difficult to enter into essential agreements with international financial organizations and Poland's creditors.

- The government's economic program for 1991, defined in the governmental guidelines for the economic-social policy for 1991, is insubstantial and full of slogans. Moreover, this document contains but few announcements of activities designed to create a real basis for expecting that 1991 will bring a fundamental correction of the economic situation and in particular a radical breakthrough in the recession. Opposition elicits acceptance of the hypothesis that the recession may even deepen, in spite of the fact that there is no indication of the steps which would have to be taken were such a danger to become a reality.
- The burden of the crisis and of economic modernization upon various socio-occupational groups in terms of costs is not uniform. Exceptional weights fall on workers employed in the state sector and on farmers. Government documents do not clearly and convincingly express any intention to change this situation.
- Pathological phenomena are growing in economic life. More and more people derive income from tax evasion. Activity of a speculative nature plays a large role, and at the same time salaries for normal work are undergoing a deep reduction. This gives birth to understandable feelings of discouragement and favors the spread resentful attitudes. The government has not displayed any energy in fighting pathological phenomena in the economy.
- Unemployment has already reached a very high level, and in certain regions of the country it is very acute. At the same time, benefits allotted in the State Budget for the unemployed are very high. Further growth of unemployment must inevitably lead to a growth in social tensions. In the government's program, however, no active policy to counteract unemployment in an effective manner has been defined.

Paragraph 2. The Sejm expresses its will to stubbornly and consistently continue the market reform of the economy in Poland. However, the basis of this process must be a program that guarantees to minimize social costs, spread them justly, and above all overcome the recession. The program must win social acceptance, and should then be executed consistently. The program documents submitted by the government do not create guarantees for the continuation of the reform in accordance with the above-mentioned principles.

Paragraph 3. The Sejm reminds the government of its previous resolutions regarding the realization of the stabilization program and calls attention to the fact that they were in large part not executed. In particular, we expect the government to diligently execute the resolution of the Sejm regarding the definition of the state's duties to its citizens. The Sejm recognizes that the time, scope, and forms of satisfying various citizens' claims should be regulated in a special statute, under which the formal violation of the statutes cannot be accepted exclusively as the criterion for recognizing these claims. Considerations of social justice must be taken into account as well as the actual capabilities of the state. Along with attempting to ensure the satisfaction of citizens deprived illegally of their wealth, the possibility of awarding appropriate compensation to persons who performed forced labor in the 1950's, persons who were waiting for an apartment but whose savings underwent depreciation, and so forth, should be considered. Expenditures reserved for these goals in the budgetary law for 1991 may be borne after the adoption of appropriate statutory regulations.

Paragraph 4. The Sejm requires the government to submit by the end of April evaluations of the implementation of the stabilization program in 1990 and evaluations of the development of the economic situation in the first quarter of this year. The Sejm also enjoins the government to prepare and submit a concrete and corrected economic program for the remaining quarters of 1991. The program's corrections should take into consideration the principles mentioned in the resolution. In particular the Sejm expects the corrected program to create real guarantees of economic growth in 1991.

Paragraph 5. The Sejm expects the government to undertake multilateral and complex consultations with trade unions (and other institutions representing the interests of large socio-occupational groups), as a result of which the economic program will gain the acceptance of these groups. The Sejm declares its cooperation and aid in the process of adjusting interests and forming a program that enjoys wide social support.

Marshall of the Sejm: M. Kozakiewicz

**Proclamation on Land Use Management,
Expropriation Law**

91EP0524A Warsaw DZIENNIK USTAW in Polish
No 30, 10 Apr 91, Item No 127 pp 417-432

[Proclamation of the Ministry of Land Use Management and Construction dated 28 February on the publication of the uniform text of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate]

[Text] Paragraph 1. Pursuant to Article 12 of the Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (DZIENNIK USTAW [Dz.U.], No. 79, Item No. 404), the Appendix to the present Proclamation contains the

uniform text of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz.U., No. 22, Item No. 99), with allowance for the amendments incorporated by:

1) Law dated 16 July 1987 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 21, Item No. 124),

2) Law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 24, Item No. 170),

3) Law dated 24 February 1989 on Certain Conditions of Consolidating the National Economy and On Amending Certain Laws (Dz.U., No. 10, Item No. 57), with the above amendments being incorporated in the uniform text introduced by the Proclamation dated 1 March 1989 of the minister of land use management and construction (Dz.U., No. 14, Item No. 74), and by:

4) Law dated 17 May 1989 on the Relationship Between the State and the Catholic Church in the Polish People's Republic (Dz.U., No. 29, Item No. 154),

5) Law dated 24 February 1990 on Certain Practical Aspects of Social Security for Private Farmers and Their Family Members in 1990 (Dz.U., No. 14, Item No. 90),

6) Law dated 17 May 1990 on the Division of the Tasks and Powers Defined in Specific Laws Among Gmina Bodies and Offices of the Government Administration, and on Amending Certain Laws (Dz.U., No. 34, Item No. 198, and No. 43, Item No. 253),

7) Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 79, Item No. 464),

8) Law dated 14 December 1990 on the Abolition and Dissolution of Certain Funds (Dz.U., No. 89, Item No. 517),

9) Law dated 12 January 1991 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 9, Item No. 29), as well as the amendments ensuing from the regulations issued prior to the publication date of the uniform text, upon preserving continuous numbering of chapters, articles, paragraphs, and points.

Paragraph 2. The uniform text of the law provided in the Appendix to the present proclamation does not comprise:

1) Articles 98, 99 (Points 2 and 3), and 101 of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz.U., No. 22, Item No. 99), to wit:

"Article 98. In the Law dated 4 July 1947 on Amending the Decree dated 25 November 1936 of the

President of the Republic on the Relationship Between the State and the Evangelical-Augsburg Church in the Polish Republic (Dz.U., No. 52, Item No. 272), in Article 2, Paragraph 1, the third and fourth sentences are crossed out.

"Article 99. In the Law dated 23 April 1963 on the Civil Code (Dz.U., No. 16, Item No. 93, 1964; No. 27, Item No. 252, 1971; No. 19, Item No. 122, 1976; No. 11, Item No. 81, No. 19, Item No. 147, and No. 30, Item No. 210, 1982; and No. 45, Item No. 242, 1984), the following amendments are incorporated:

"2) In Article 232, Paragraph 1, the parenthesized 'state areas' is crossed out.

"3) In the title of Book II, 'area' used in the appropriate number and case is crossed out and 'land' used in the appropriate number and case is inserted in lieu thereof.

"Article 101. The present law takes effect on 1 August 1985, with the proviso that the provisions governing fees for usufruct and perpetual usufruct applying on the day the present law take effect as of 1 January 1986."

2) Article 11 of the Law dated 16 July 1987 on Amending the Housing Law (Dz.U., No. 21, Item No. 124), to wit:

"Article 11. The present law takes effect on 1 January 1988."

3) Articles 2 and 5 of the law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 24, Item No. 170), to wit:

"Article 2. Proceedings still in progress on the day the present law takes effect are continued on the basis of the provisions of the present law."

"Article 5. The present law takes effect on the day of its publication."

4) Article 17 of the Law dated 24 February 1989 on Certain Conditions for Consolidating the National Economy and on Amending Certain Laws (Dz.U., No. 10, Item No. 57), to wit:

"Article 17. The present law takes effect on the day of its publication, with the proviso that Articles 1 and 2 and Articles 4-7 are binding until 31 December 1990."

5) Article 77 of the Law dated 17 May 1989 on the Relationship Between the State and the Catholic Church in the Polish People's Republic (Dz.U., No. 29, Item No. 154), to wit:

"Article 77. The present law takes effect on the day of its publication."

6) Article 12 of the Law dated 24 February 1990 on Certain Aspects of the Operation of Social Insurance of

Private Farmers and Their Family Members in 1990 (Dz.U., No. 14, Item 90), to wit:

"Article 12. The present law takes effect on the day of its publication and is retroactive to 1 January 1990, with the exception of the provisions of:

"1) Article 6, Points 10, 18, 20-22, and Article 9, which take effect on 1 April 1990.

"2) Article 6, Point 4b, and Point 9, which take effect on 1 July 1990."

7) Articles 2-11 and Article 13 of the Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 79, Item No. 464), to wit:

"Article 2.1. Land owned by the State Treasury or by a gmina [township] (or an intergmina association), with the exception of the land owned by the State Land Fund, which on the effective date of the present law is being administered by state legal entities other than the State Treasury, becomes on that date, by virtue of law, the object of perpetual usufruct. This does not infringe upon the rights of third parties. The rights of the state farms to the State Treasury-owned land which they administer on the effective date of the present law are regulated by a separate law.

"2.2. Buildings and other objects as well as the housing located on land owned by the State Treasury or by a gmina (or an intergmina association), which on the effective date of the present law are administered by legal entities, become the property of these entities on said date, by virtue of law. The acquisition of the title of ownership by these entities takes place in return for a fee, unless these buildings or other objects were erected or acquired with the funds of these entities.

"2.3. The acquisition of the right to the perpetual usufruct of the lands referred to in Paragraph 1 and of the ownership of the buildings, other objects, and housing referred to in Paragraph 2 is affirmed by the decision of the voivode with respect to real estate owned by the State Treasury, or by the decision of a gmina board with respect to gmina-owned real estate. That decision also specifies the duration of the perpetual usufruct, upon adhering to the guidelines contained in Article 236 of the Civil Code.

"2.4. Land owned by the State Treasury or by a gmina (or an intergmina association) which was, on the effective date of the present law, underused by legal entities, or by organizational units lacking legal entity, shall remain used by these entities or units.

"2.5. Buildings and other objects and housing located on land owned by the State Treasury or by a gmina (or intergmina association) which were, on the effective date of the present law, used by legal entities, or by organizational units lacking legal entity, shall remain used by these entities or units.

"2.6. The fees for administering the buildings and other objects and housing are, upon deducting the benefits accruing to the user, credited to the purchase price of the property referred to in Paragraph 2.

"2.7. The provisions of Paragraph 6 apply correspondingly in the event of the sale of buildings and other objects and housing to the existing user.

"2.8. The use referred to in Paragraphs 4 and 5 is governed by the provisions governing administration.

"2.9. The provisions of Paragraphs 1 and 2 do not infringe upon the provisions of Article 8 of the Law dated 10 May 1990—Regulations Introducing the Law on Local Governments and the Law on Local-Government Employees (Dz.U., No. 32, Item No. 191, and No. 43, Item No. 253).

"Article 3. Real estate acquired by state legal entities following the effective date of the Law dated 31 January 1989 on Amending the Law on the Civil Code (Dz.U., No. 3, Item No. 11) constitutes the property of these entities as of the moment of its acquisition.

"Article 4. Real estate owned by the State Treasury or by a gmina (intergmina association) which, on the effective date of the present law, is administered by state or municipal organizational units lacking legal entity, remains administered by these units.

"Article 5.1. Proceedings instituted but not completed before the effective date of the present law are continued pursuant to its provisions.

"5.2. Final decisions on fees issued before the effective date of the present law remain binding. In these matters the provisions of Article 47b (Article 43 under the continuous numbering adopted in the uniform text) apply.

"5.3. Fees for administering land allocated for purposes of national defense and national security are not collected until 31 December 1990.

"Article 6. With regard to the land which was, prior to the effective date of the present law, under perpetual usufruct, administration, or lease, and for which the timetable for commencing or completing its buildup is not established, the district office of the general government administration in the case of the land owned by the State Treasury, or the gmina board (or board of the intergmina association) in the case of gmina-owned land, stipulates that timetable by issuing a decision on taking into consideration the nature of the construction project and the extent of land development, should that timetable be not agreed upon contractually within six months from the effective date of the present law.

"Article 7. The unpaid balance of the compensation still due for expropriated real estate on the effective date of the present law is to be paid in a lump sum, upon its reappraisal, not later than within six months from the effective date of the present law. Interest is payable on

delays or postponements of the payment of compensation, under the guidelines of the Civil Code.

"Article 8.1. A person who has, on the basis of a construction permit, erected with his or her own funds a garage on land owned by the State Treasury, or owned by a gmina (intergmina association), as well as the successor in right of that person, has the right to acquire the title to the ownership of that garage or to perpetual usufruct from this garage, if he or she is leasing said garage. The acquisition of the garage does not involve the payment of a fee, and it takes place on the demand of the interested party.

"8.2. The acquisition of ownership of a garage built on the basis of a construction permit for a temporary site hinges on the consonance between its location and the local master plan binding at the time the title of ownership is requested.

"Article 9.1. A person who has, with the owner's consent, renovated or expanded a building owned by the State Treasury or a gmina so as to result in distinct separate premises is, if purchasing said premises, credited with the expenses incurred on the renovation or expansion minus the cost of depreciation, with the purchase price reduced accordingly.

"9.2. The provisions of Paragraph 1 do not apply if the hire or tenancy contract specifies otherwise.

"Article 10. In the Civil Code, in Article 599, Paragraph 2, and in Article 600, Paragraph 2, 'to the gmina' is inserted after 'to the State Treasury.'

"Article 11. In the Code of Civil Procedure, in Article 1025, Paragraph 1, Point 4, 'of the State' is struck out and 'of the State Treasury or the gmina' is inserted in lieu thereof."

"Article 13. The present law takes effect 14 days after its publication."

8) Article 27 of the Law dated 14 December 1990 on the Abolition and Dissolution of Certain Funds (Dz.U., No. 89, Item No. 517), to wit:

"Article 27. The present law takes effect on 1 January 1991, with the exception of Articles 5 and 14, which take effect on the day of publication."

9) Article 2 of the Law dated 12 January 1991 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 9, Item No. 29), to wit:

"Article 2. The present law takes effect on the day of its publication and is retroactive to 1 January 1991."

Paragraph 3. The uniform text of the law given in the Appendix to the present proclamation also does not comprise—inasmuch as they have expired—the following provisions:

1) Article 87, Paragraph 4, and Article 99, Points 1 and 4, of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz.U., No. 22, Item No. 99), to wit:

"Article 87.4. The possessors referred to in Paragraph 2 are exempt from the first fee constituting a multiple of the annual fees if they submit applications for transfer of title to the land by 31 December 1988.

"Article 99. In the Law dated 23 April 1964 on the Civil Code (Dz.U., No. 16, Item No. 93, 1964; No. 27, Item No. 252, 1971; No. 19, Item No. 122, 1976; No. 11, Item No. 81, No. 19, Item No. 147, and No. 30, Item No. 210, 1982; and No. 45, Item No. 242, 1984), the following amendments are incorporated:

"1) In Article 231, Paragraph 3, insert 'or transfer the title to the real estate in return for a consideration' after 'for perpetual usufruct.'"

"4) The existing text of Article 283 is denoted as Paragraph 1 and the following Paragraph 2 is added:

"(Paragraph 2) 'An executive order of the Council of Ministers shall define the guidelines and procedure for the transfer, between entities of the socialized sector, of title to state-owned cropland and forested land as well as to certain other land located in areas earmarked in land use plans for agricultural or forestry purposes; said executive order shall also define the powers of the pertinent agencies in such cases.'"

2) Article 3 of the Law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 24, Item No. 170), to wit:

"Article 3. In the Decree dated 13 June 1956 on the State Geodetic and Cartographic Service (Dz.U., No. 25, Item No. 115, 1956; and No. 44, Item No. 200, 1983; and No. 33, Item No. 180), Article 18 is reworded as follows:

"Article 18.1. Matters relating to boundaries of real estate and keeping registers of land and buildings, irrespective of their purpose, belong within the competences of:

"1) The minister of land use management and construction, with regard to municipal areas.

"2) The minister of agriculture, forestry, and food industry, with regard to gmina areas.

"18.2. Matters relating to the subdivision of real estate belong within the competences of:

"1) The minister of land use management and construction with regard to built-up land and land earmarked for construction.

"2) the minister of agriculture, forestry, and food industry, with regard to all other land."

Minister of Land Use Management and Construction: A. Glapinski

**Appendix to the Proclamation dated 28 February 1991
of the Ministry of Land Use Management and
Construction (Item No. 127)**

**[Uniform text of the] Law dated 29 April 1985 on Land
Use Management and Expropriation of Real Estate**

Chapter I. General Provisions

Article 1.1. The present law defines the guidelines for the:

1) Use of built-up land and land earmarked for buildup in land use plans, hereinafter referred to as "land"; buildup as construed by the present law consists of structures and facilities for the functioning of cities and rural areas as well as other structures and facilities of national or regional importance.

2) Expropriation of real estate.

1.2. The guidelines for land use specified in the present law do not apply to the built-up land that is part of farms or that is linked to state forestry establishments and located in the areas earmarked in land use plans exclusively for agricultural or silvicultural purposes.

Article 2.1. The use of land owned by the State Treasury belongs within the competences of the voivodes and district offices of the general government administration, while the use of gmina-owned land belongs within the competences of gmina councils and gmina boards.

2.2. The expropriation of real estate belongs within the competences of the district offices of the general government administration.

Article 3.1. The provisions governing the gminas apply correspondingly to intergmina associations.

3.2. Premises as construed by the present law also include garages that are component parts of buildings.

Article 4.1. Land owned by the State Treasury or by a gmina may be sold to legal entities and individuals or transferred thereto for perpetual usufruct, use, leasing, or tenancy, with the proviso of Paragraphs 6 and 7. Land may also be sold or transferred for perpetual usufruct, use, leasing, or tenancy to more than one entity or individual.

4.2. Land owned by the State Treasury may also be transferred on a fee-exempt basis, by virtue of an agreement, to the ownership of a gmina or loaned or transferred thereto, also on a fee-exempt basis, for perpetual usufruct, or for use, while gmina-owned land may be transferred on a fee-exempt basis, by virtue of an agreement, to the ownership of the State Treasury or another gmina, or it may be loaned or transferred on a fee-exempt basis for perpetual usufruct or for use to the State

Treasury or another gmina; the transfer of land ownership is governed by the regulations governing transfer of property ownership.

4.3. The land referred to in Paragraph 1 may be sold or transferred for perpetual usufruct, use, leasing, or tenancy to foreigners with the proviso of Paragraph 7. Sale and transfer for perpetual usufruct in such cases requires the approval of the minister of internal affairs and is governed by the Law dated 24 March 1920 on the Acquisition of Real Estate by Foreigners (Dz.U., No. 24, Item No. 202, 1933; No. 41, Item No. 325, 1988; and No. 79, Item No. 466, 1990).

4.4. Land owned by the State Treasury may be transferred on fee-exempt basis to administration by organizational units lacking legal entity, while gmina-owned land may be transferred on fee-exempt basis for administration by communal organizational units lacking legal entity.

4.5. The land referred to in Paragraph 1 may be loaned for a short period of time to legal entities, individuals, and state and communal units lacking legal entity.

4.6. Legal entities and individuals engaging in charitable, guardianship, cultural, medical, educational, sports, and tourist activities may be sold the land referred to in Paragraph 1 at a reduced price or they may be given such land on a fee-exempt basis for the purpose of perpetual usufruct therefrom or for use thereof for nonprofit operations.

4.7. Land owned by the State Treasury may be, on the principle of reciprocity, sold or transferred for perpetual usufruct, use, leasing, or tenancy, to the diplomatic missions or consular offices of foreign countries, and to other missions and institutions enjoying similar privileges and immunities by virtue of international laws, agreements, or universally binding customs.

4.8. The sale or transfer for perpetual usufruct of land owned by the State Treasury or a gmina, with the proviso of Paragraphs 6 and 7 and Article 23, Paragraph 4, as well as the sale of vacant buildings and other vacant facilities or premises owned by the State Treasury or a gmina, takes place by means of an auction organized pursuant to the guidelines established by the minister of land use management and construction.

4.9. Land owned by the State Treasury or a gmina may be exchanged for land owned by, or whose perpetual usufruct is enjoyed by, legal entities or individuals.

Article 5. Land owned by the State Treasury or a gmina may be encumbered by limited rights on property. Such land may also constitute in-kind contributions by partners to companies governed by the commercial law.

Article 6. Real estate transferred for perpetual usufruct may be sold to its perpetual usufructuary at a price determined pursuant to the provisions of Article 39. An application in this matter may be submitted by the

perpetual usufructuary, the gmina board, or the district office of the general government administration.

Article 7. Matters not regulated in the present law are governed by the provisions of the Civil Code.

Article 8. The sale of land owned by the State Treasury or a gmina, or its transfer for perpetual usufruct, use, leasing, or tenancy, when such land is located on the territory of:

1) Seaports and coastal zones—requires consultation with the government agency proper for maritime affairs.

2) Mining areas—requires consultation with the proper district mining office.

3) Mineral deposits subject to mining law, for which a mining area has not been zoned, and mineral and other deposits not subject to mining law—requires consultation with the government agency proper for geologic affairs.

4) National parks—requires consultation with the proper national park director.

Article 9.1. State organizational units which lack legal entity, including also offices of the general government administration, purchase real estate on the basis of a contract on behalf of the State Treasury, which thus becomes the owner, while communal [gmina] organizational units lacking legal entity purchase real estate on the basis of a contract on behalf of the gmina, which thus becomes the owner.

9.2. Real estate acquired on the basis of a contract by state or communal organizational units lacking legal entity is administered by these units.

Article 10.1. The subdivision of real estate may take place if it is consonant with the local land use plan.

10.2. Irrespective of the terms of the local land use plan, real estate may be subdivided for the purpose of:

1) Abolishing co-ownership of real estate when the latter is built up with two or more single-family houses or with other residential buildings or with residential buildings jointly with farm structures relating to a private farm, when the subdivision is intended to separate dwellings for each of the co-owners along with the land needed to properly utilize these dwellings.

2) Separating the land needed for the proper utilization of a house or a building erected in good faith by its existing possessor.

3) Separating the land acquired through acquisitive prescription.

10.3. Subdivision of real estate is based on a ruling of the district office of the general government administration approving the subdivision proposal.

10.4. The provisions of Paragraph 3 do not apply to subdivisions subject to judicial rulings. If the admissibility of subdivision hinges on the stipulations of the local land use plan (Paragraph 1), the court consults on this matter the district office of the general government administration.

10.5. As regards real estate subject to subdivision on the request of the owner, the part of said real estate that is set aside for building streets becomes the property of the gmina on the day on which the decision or ruling on the subdivision becomes final or validated, in return for compensation determined in accordance with the guidelines applying to the expropriation of real estate.

Chapter II. Land Reserves

Article 11.1. Gminas may set aside land reserves for the buildup of cities and villages, and in particular for organized multifamily housing construction and the attendant structures and facilities on areas earmarked for this purpose in local land use plans.

11.2. Organized multifamily housing construction is construed as the construction of multifamily apartment buildings of a housing-project nature, implemented on the land developed for this purpose by the gmina.

11.3. The boundaries of the land earmarked for organized multifamily housing construction are determined by resolutions passed by gmina councils.

11.4. Drafts of the resolutions referred to in Paragraph 3 are subject to public viewing for 21 days at the offices of the gmina board, upon notifying interested persons in writing.

11.5. During the public viewing referred to in Paragraph 4, interested persons may submit proposals, comments and reservations concerning the draft resolution. When considering the resolution, the gmina council examines the submitted proposals, comments, and reservations and decides how to resolve them. Such decisions are communicated to the interested persons.

Article 12. Gmina boards acquire land for land reserves, order geodetic studies of such land along with proposals for its development and subdivision, and have utility mains and lines installed in such reserve land.

Article 13.1. The boundaries of the real estate acquired by the State Treasury or a gmina are taken to be as per their existing legal status or, if such status cannot be ascertained, according to the pertinent entries in the land registers.

13.2. In the event of a boundary dispute, the activities relating to the acquisition of real estate are not suspended, and interested persons may only sue for financial compensation in a court of law.

Article 14.1. Gmina councils may pass resolutions defining the boundaries of the land set aside for concentrated single-family home building on the territory set aside for this purpose in local land use plans.

14.2. Built-up parts of real estate may not be bound by the resolutions referred to in Paragraph 1 without the consent of their proprietors or perpetual usufructuaries.

14.3. Real estate located within the boundaries referred to in Paragraph 1 is subject to integration of fragmented holdings and subdivision into building lots.

14.4. Proceedings to determine the boundaries of the land earmarked for concentrated single-family home building are instituted:

1) Upon the proposal of the owners or perpetual usufructuaries of the real estate of which more than 50 percent is located within the boundaries referred to in Paragraph 1.

2) Ex officio, if the surface area of the gmina-owned real estate accounts for more than 10 percent of the surface area of the land located within the boundaries referred to in Paragraph 1.

14.5. Owners and perpetual usufructuaries of the real estate referred to in Paragraph 3 elect from among themselves a council of participants in the integration, endowed with advisory powers in proceedings for the integration of fragmented land holdings. The size of the council should depend on the number of the persons involved in said integration, but it should not exceed 10. If the number of persons involved is fewer than 10, no council is elected.

14.6. Concentrated single-family home building is construed to mean the organized erection of at least 10 single-family homes on the land located within the boundaries referred to in Paragraph 1.

Article 15.1. The resolution passed by a gmina council to define the boundaries of the land earmarked for concentrated single-family home building contains:

1) Geodetically defined boundaries of the land earmarked for concentrated single-family home building.

2) Geodetic project of the integration of fragmented holdings and the subdivision of the real estate into building lots.

3) Register of real estate, indicating both previous status and new status, inclusive of the building lots allocated to the participants in the integration of fragmented holdings in return for the real estate they had owned or held in perpetual usufruct.

4) Kinds of technical facilities planned, their construction schedule, and funding sources.

5) A ruling on the amounts of compensation to be paid for the land transferred to the gmina's ownership.

6) Information on the amounts of frontage fees encumbering discrete building lots.

15.2. The draft resolution referred to in Paragraph 1 is subject to evaluation by the council of participants in the integration of fragmented holdings as well as to public viewing for 21 days at the offices of the gmina board, with these persons being correspondingly notified in writing.

15.3. During its public viewing, interested persons may submit proposals, comments, and reservations concerning the draft resolution. In their proposals, interested persons may specify the building lots they desire to acquire in return for the real estate they own, when such real estate is subject to integration of fragmented holdings and subdivision. The proposals, comments, and reservations submitted are subject to evaluation by the council of participants in the integrative process.

15.4. The gmina council passing the resolution consults the council of participants in the integrative process, examines the submitted proposals, comments, and reservations, and notifies interested persons in writing about its decision.

Article 16.1. The surface area of any real estate subjected to integration of fragmented holdings and subdivision is reduced by the surface area needed for streets and squares. This reduction in area is in direct proportion to the area of the real estate concerned and to the overall area of the land set aside for streets and squares.

16.2. In return for contributing the real estate subject to integration and subsequent subdivision into building lots, the owner or perpetual usufructuary is correspondingly assigned the title to or perpetual usufruct of a number of these building lots whose aggregate surface area corresponds to the surface area of his original real estate minus the area deducted pursuant to Paragraph 1. If a strictly equitable exchange is not feasible, the difference is settled in cash. The exchange of the ownership or perpetual usufruct of the original real estate for ownership or perpetual usufruct of building lots takes place pursuant to the resolution referred to in Article 14, Paragraph 1.

16.3. The owners or perpetual usufructuaries of the real estate subjected to integration of fragmented holdings and subdivision should be insofar as possible assigned the building lots referred to in Paragraph 2 entirely or partially on the area of their original real estate.

16.4. Land that is not included in the building lots assigned under the provisions of Paragraph 2 to the previous owners or perpetual usufructuaries, and in particular land set aside for streets and squares, becomes, by virtue of law, the property of the gmina on the day on which the resolution of the gmina council on the boundaries of the land earmarked for concentrated single-family home building becomes valid and legal.

16.5. For the land that is transferred to the ownership of the gmina, as well as for the facilities which the previous owner or perpetual usufructuary is unable to remove, and also for trees and bushes, compensation is paid pursuant to the binding guidelines on the expropriation of real estate. The expense of the compensation is borne by the gmina.

16.6. Persons who are assigned building lots are obligated to pay the gmina frontage fees that correspond to the increase in the value of these lots compared with the previously owned real estate on which they are situated. When assessing the value of that previously owned real estate, no allowance is made for the value of the facilities, trees, and bushes referred to in Paragraph 5 if their owner or usufructuary has been paid compensation for them.

Article 17.1. The gmina council resolution referred to in Article 14, Paragraph 1, is the basis for making suitable entries in land registers, establishing new land registers for the land transferred to the gmina's ownership, and emending the land and building records.

17.2. The easements of land applying to the real estate concerned are abolished if they are not needed on the building lots subdivided from that real estate. All other easements and liens on the real estate are transferred to the building lots assigned to the previous owners or perpetual usufructuaries of that real estate.

17.3. Emendations of entries in land and mortgage registers and the establishment of new land registers are implemented on the recommendation of the gmina.

17.4. The expenses associated with the integration of fragmented land holdings and subdivision of the integrated whole into building lots are borne by the participants in the proceeding proportionately to the area of the real estate parcels they owned.

Article 18. The Council of Ministers shall define in an executive order the guidelines and procedure for determining the boundaries of the land earmarked for concentrated single-family home building, the fragmented real estate holdings to be integrated and then subdivided into building lots, the transfer of the ownership or perpetual usufruct of real estate to the ownership or perpetual usufruct of the subdivided building lots, the selection and activities of the council of participants in the integration of fragmented holdings, the amounts of frontage fees, and cost accounting.

Chapter III. Sale or Transfer for Perpetual Usufruct, Use, Lease, Tenancy, or Loan of Real Estate Owned by the State Treasury or by a Gmina

Article 19.1. The sale or transfer for perpetual usufruct, use, lease, tenancy, or loan of the real estate owned by the State Treasury or by a gmina requires concluding a contract. The transfer of land for perpetual usufruct on the basis of a contract must be entered in a land register.

Article 20. The transfer of built-up land for perpetual usufruct is performed concurrently with the sale of the buildings and other facilities located on that land.

Article 21.1. Dwellings in buildings owned by the State Treasury or by a gmina are sold concurrently with the sale or transfer for perpetual usufruct of an attached land area needed for the rational maintenance of the building.

21.2. Parts of the buildings referred to in Paragraph 1 and other facilities which do not serve exclusively for use by any single owner are jointly owned by the owners of discrete dwellings in a building, in proportions corresponding to the dwelling areas they own individually in the building; the same proportions apply to the attached land sold or transferred for perpetual usufruct.

21.3. Until the sale by the State Treasury or by a gmina of all the dwellings located in a building owned by the State Treasury or by a gmina is consummated, the renovation, overhaul, or expansion of the building by private individuals with the object of augmenting the number of dwellings therein has to be approved by the pertinent district office of the general government administration with regard to buildings owned by the State Treasury, or by the gmina board with regard to gmina-owned buildings. The pertinent construction permits are granted pursuant to the provisions of the Construction Law.

21.4. Upon the completion of the renovation, overhaul, or expansion referred to in Paragraph 3, the district office of the general government administration with respect to real estate owned by the State Treasury and the gmina council with respect to gmina-owned real estate shall issue a ruling that will change correspondingly the size of the shares in the building and in the appertaining land, or in the perpetual usufruct therefrom, owned by the owners of individual dwellings.

21.5. In the event that the ruling referred to in Paragraph 4 results in decreasing the share owned in a building, in the appertaining land, or in the perpetual usufruct from the latter, the owners of individual dwellings are entitled to a compensation whose amount is determined in accordance with the guidelines binding for the expropriation of real estate. In the event that the above-mentioned ruling results in increasing said share, the owners of discrete dwelling in the buildings are not assessed an additional fee.

21.6. The final ruling referred to in Paragraph 4 is the basis for correspondingly revising the land register.

21.7. The sale of a tenant-occupied or leased dwelling may be made only to the tenant or leasee concerned, or to a close person named by the tenant or leasee and living in the same household, at a price equal to the assessed value of the dwelling as determined pursuant to Article 38.

21.8. The right to name a close person does not apply to a tenant residing in a dwelling pursuant to the regulations governing the billeting of the Armed Forces.

21.9. The voivode with respect to a building owned by the State Treasury or the gmina council with respect to a gmina-owned building may specify the criteria for designating for sale dwellings in such a building.

21.10. The Council of Ministers specifies in an executive order which single-family homes or dwellings in apartment buildings may be sold even when their dwelling area or number of rooms exceed the norms applying to these homes and dwellings under separate regulations.

Article 22. In the event of the sale or transfer for perpetual usufruct of land on which stands an architectural landmark, the purchaser is obligated to repair or renovate that landmark within a time limit specified in the contract and to maintain it in a suitable condition.

Article 23.1. The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, makes public the list of real estate holdings available for sale or transfer for perpetual usufruct, use, lease, or tenancy. Said list is posted for six weeks in the premises of the district office or the gmina board.

23.2. The list referred to in Paragraph 1 specifies:

1) The real estate and the corresponding land register entry.

2) Designation of the real estate according to land and building records.

3) Surface area of the real estate.

4) Description of the real estate.

5) Designation of the real estate in the local land use plan, and the related buildup plan.

6) Deadlines for commencing and completing the buildup.

7) Form of sale or transfer of real estate.

8) Price of land, building, facilities, and premises.

9) Applicable fees and time intervals for their payment.

10) Requirements for changing the price of the real estate and the applicable fees.

23.3. Tenants or leasees are notified in writing that the premises have been designated for sale and that they have priority in purchasing the premises they occupy.

23.4. Former owners of real estate appropriated on behalf of the State Treasury or their heirs have priority in buying said real estate if they offer a price equal to the value of that real estate as appraised by the procedure

stipulated in Article 38. The provisions of Paragraph 3 apply correspondingly, unless the address of the former owner of real estate is unknown.

Article 24.1. The agencies referred to in Article 23, Paragraph 1, issue public announcements of auctions not earlier than after the expiration of the period of time specified for the display of the list of real estate. The auction announcement provides the same information as that contained in the list referred to in Article 23, Paragraph 2. The announcement does not list the real estate which the persons referred to in Article 23, Paragraph 4, have applied to buy, as well as the real estate referred to in Article 4, Paragraphs 5, 6, and 7.

24.2. If the sale or transfer for perpetual usufruct of real estate has not been consummated during the first auction, a second auction is organized and the minimum price of the real estate specified during the first auction is lowered.

24.3. If the sale or transfer for perpetual usufruct of real estate has not been consummated during its second auction either, the real estate may be sold or transferred for perpetual usufruct in the absence of a third auction.

24.4. The agencies referred to in Article 23, Paragraph 1, are obligated, within one month from the day the buyer of real estate is identified, to request a notarial office to notarize the sale contract with that buyer. If the designated buyer of real estate fails to show up at the notarial office on the day and at the hour specified, said agencies may refrain from signing the contract.

Article 25.1. A legal entity or an individual who becomes the perpetual usufructuary of land owned by the State Treasury or by a gmina, or his legal successor, should manage that land by the procedure and following the timetable specified in the contract, should a timetable be specified there. If the management of the land consists in its buildup, the laying of foundations is considered to be the commencement and the erection of the closed building shell is considered to be the completion.

25.2. The timetable referred to in Paragraph 1 may be extended if the failure to adhere to it was caused by circumstances beyond the control of the purchaser of the land.

Article 26.1. Perpetual usufruct expires upon the expiration of the period of time specified in the contract or upon the revocation of the contract prior to the expiration of that period.

26.2. The district office of the general government administration with respect to land owned by the State Treasury and the gmina board with respect to gmina-owned land may issue a ruling revoking the contract and seizing the land pursuant to Article 240 of the Civil Code.

26.3. The revocation of the contract for the transfer of perpetual usufruct and the order to seize land may also be determined upon in the event that the buildings and

facilities transferred for perpetual usufruct together with the land are not properly maintained.

26.4. The right to perpetual usufruct may be expropriated.

Article 27.1. Unless otherwise specified by the contract for perpetual usufruct, the real estate concerned is free of all encumbrances or liens. Furthermore, the contract may not eliminate any easement needed to use the land to which the easement is linked.

27.2. Persons with limited property rights to the real estate concerned may, within a year reckoning from the date they are notified that the contract for transfer of perpetual usufruct has been concluded, submit to the local office of the general government administration with respect to land owned by the State Treasury, or to the gmina board with respect to gmina-owned land, claims for compensation pursuant to the guidelines governing the expropriation of real estate.

27.3. Compensation payable to two or more persons is, in the event of disagreement on the proposed disbursement procedure, deposited with a court of law with the object of dividing it between or among the eligible claimants.

27.4. The deletion from land registers of the liens and encumbrances referred to in Paragraph 1 takes place upon the request of the buyer as well as of the local office of the general government administration or the gmina board.

Article 28. The provisions of Articles 25 and 27 apply correspondingly to the land sold by the district office of the general government administration or by the gmina board.

Article 29. In the event of failure to implement the obligations referred to in Article 22, or failure to implement or extend the timetable referred to in Article 25, Paragraph 1, the district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may require the owner to transfer the ownership of the acquired building lot to, correspondingly the State Treasury or the gmina, upon suitable compensation that may not, however, be higher than the compensation payable in the event of expropriation of that real estate.

Article 30. In the event of the lease or tenancy of land owned by the State Treasury or by a gmina, its present leasee or tenant has priority in buying that land, provided that he or she has held lease or tenancy to that land for a period of more than 10 years.

Article 31.1. If the administration by a state organizational unit or by a gmina of a built-up parcel of real estate that comprises a multifamily apartment building standing on land owned by the State Treasury or by a gmina, when some of the apartments have been sold, has not been dispensed with by the co-owners pursuant to

the Civil Code, the share of the individual owners in the expenditures on maintenance and repair may not exceed the rental fee charged for the equivalents of their apartments, as determined according to the rate schedule specified by the Council of Ministers, without charging higher fees for the ownership of a dwelling area larger than the applicable norm.

31.2. In addition to the expenditures referred to in Paragraph 1, apartment owners pay the fees for the supply of cold and hot water, central heating, and the use of a collective television antenna.

31.3. The provisions of Paragraphs 1 and 2 apply to dwelling units irrespective of the date on which the sales contract is signed, and irrespective of the language of the notarized agreements on the share of owners in the cost of maintenance and repair.

31.4. The provisions of Paragraph 1 do not apply to premises other than residential. The share of the owners of nonresidential premises in the cost of maintenance and repair is defined in the agreement concluded among all such owners [in a building].

31.5. The Council of Ministers issues executive orders defining:

1) The detailed guidelines and procedure for the transfer of land for perpetual usufruct, the sale of real estate owned by the State Treasury or by a gmina, the method of payment of the sales price, the settlement of accounts associated with the revocation of a contract for perpetual usufruct and sale, and the share of individual owners of premises in the cost of maintenance and repair of a building, with allowance for the guidelines specified in Paragraph 1.

2) The specific obligations of state organizational units or gminas administering built-up land which is owned by the State Treasury or by a gmina, with regard to the administration of a building and its maintenance and repair, and the procedure for transferring the administration of a multifamily apartment building to the owners of apartments therein after administration by these units expires or is eliminated by the owners of apartments in the building.

31.6. The minister of justice in consultation with the minister of finance issues executive orders specifying lower fee rates for the notarial and judicial activities involved in the transfer of land for perpetual usufruct or the sale of real estate owned by the State Treasury or by a gmina.

Article 32. The sale of building lots on which stand residential homes and farm buildings, on private farms, as well as of lots designated for such buildup (cultivable land plots) is, if the sale includes land belonging to the farm, or if the sale takes place on behalf of the farm owner, governed by the regulations governing the sale of state real estate as regards the procedure, terms, and price.

Chapter IV. Administration of Real Estate Owned by the State Treasury or by a Gmina

Article 33.1. State and communal organizational units which lack legal entity status administer land assigned to them or acquired by them, together with the buildings and facilities permanently linked to that land, when such land is owned by, correspondingly, the State Treasury or by a gmina.

33.2. State organizational units which lack legal entity status are assigned to administer land owned by the State Treasury pursuant to a decision of the district office of the general government administration, or on the basis of a transfer contract signed between such units with the permission of that office, or on the basis of the contract referred to in Article 9, Paragraph 2. This provision applies correspondingly to communal [gmina] organizational units lacking legal entity status.

33.3. State and communal organizational units which lack legal entity status avail themselves of the real estate they administer in consonance with the requirements of proper management. To that extent, they may, following special regulations, modify the existing buildup and erect new structures.

Article 34. The ruling or contract referred to in Article 33 defines the location of the real estate, its surface area and boundaries, and the terms and duration of its administration, which may not be specified, or which may be specified for a period of not more than 10 years, however. The ruling specifies the manner in which real estate is to be utilized.

Article 35.1. The administration of real estate ceases upon the expiration of the period for which it was instituted, and in the event it is instituted for an unspecified period, it ceases upon the deadline specified in the ruling on the expiration of administration, serving to terminate the activities of the administrator of the real estate concerned.

35.2. The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may rule on the expiration of the administration instituted for an unspecified period, or prior to the expiration of the period for which it was instituted:

1) In the event it is found that the real estate entirely or partially does not require an administrator or is being utilized not in accord with its purpose.

2) If the manner in which the real estate is utilized affects the ambient environment adversely to an extent that threatens life, health, or property.

3) If the land use plan is altered so as to prevent further utilization of the real estate in its entirety or part in the traditional manner, and if the administrator does not consent to changing the manner in which the real estate is utilized.

35.3. The ruling to revoke administration by the organizational units of:

1) The Ministry of National Defense—requires approval by the voivode in consultation with the minister of national defense or an authorized agency.

2) The Ministry of Internal Affairs—requires approval by the voivode in consultation with the minister of internal affairs or an authorized agency.

Article 36. A state or communal organizational unit that lacks legal entity status and that administers real estate is obligated to submit to the district office of the general government administration or to the gmina board, as the case may be, a recommendation for the transfer thereto of the whole or part of the real estate which is no longer needed by the unit.

Article 37. The Council of Ministers issues an executive order defining the guidelines and procedure for assigning the administration of real estate owned by the State Treasury or by a gmina, to state or communal organizational units lacking legal entity status, as well as for the transfer of real estate between or among these units and for the related settlements of accounts.

Chapter V. Appraising the Value of the Real Estate Owned by the State Treasury or by Gminas and Determining the Fees for Perpetual Usufruct, Administration, Etc.

Article 38.1. Experts summoned and entered by the voivode on the voivodship list as well as other persons with qualifications for appraising the value of real estate appraise the value of undeveloped and developed land as well as of the buildings and other structures and premises located on that land.

38.2. The value of land is appraised on taking into consideration the current land prices, the outlays incurred, the purpose of the land according to the local land use plan, its location, and the extent to which it is developed, i.e., provided with utilities and utility mains and otherwise colonized.

38.3. The value of buildings and other facilities and premises is appraised as a function of the cost of their reproduction minus the degree of their depreciation.

38.4. The value of the buildings and other facilities designated for dismantling or liquidation is appraised according to the value of the materials remaining after the dismantling.

Article 39.1. The value of land, buildings, and other facilities and premises, is appraised at a level not lower than their value determined in accordance with Article 38.

39.2. The price of land, buildings, and other facilities and premises that are sold or transferred for perpetual usufruct by means of an auction is the price established during that auction.

39.3. Information on the prices referred to in Paragraph 1 is contained in the list referred to in Article 23, Paragraph 2.

Article 40.1. The amount of the annual fee for the perpetual usufruct from or administration of land zoned for housing, educational, or medical construction, as well as of land earmarked for construction of facilities relating to preventive health care, social services, and charitable organizations, and further of zoned residential land is 1 percent of the price established pursuant to Article 39.

40.2. The amount of the annual fee for the administration of land used for purposes of national defense and national security is 0.3 percent of the price established pursuant to Article 39. The Council of Ministers shall issue an executive order defining the kinds of land deemed necessary for purposes of national defense and national security.

40.3. The amount of the annual fee for the perpetual usufruct from or administration of any undeveloped or developed land not mentioned in Paragraph 1 is 3 percent of the price established pursuant to Article 39. This fee may be increased by a voivode's executive order with respect to land owned by the State Treasury, or by a gmina council's resolution with respect to gmina-owned land.

40.4. The following are reduced:

1) The sales price of facilities entered in the registry of architectural landmarks—by 50 percent.

2) The fee for perpetual usufruct to the land enclosed within the boundaries specified in the landmark-classification ruling—by 50 percent.

The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may reduce still further the price referred to in Point 1 or the fee referred to in Point 2, up to and inclusive of entirely dispensing with that price.

40.5. The Council of Ministers shall, upon consulting the appropriate Sejm committees, issue an executive order defining the guidelines and procedure for assessing fees for perpetual usufruct from and administration of land as well as the guidelines for fee reductions with respect to perpetual usufruct from land acquired or being acquired for the purpose of housing construction, as well as from land acquired or being acquired for religious purposes.

Article 41.1. Fees for perpetual usufruct and administration are assessed in the form of annual fees, with the proviso that the first annual fee may not be higher than 25 percent of the assessed value or lower than 15 percent thereof. Information on fees for perpetual usufruct is contained in the list referred to in Article 23, Paragraph 1.

41.2. Pensioners and annuitants whose sole source of income is a retirement pension or an annuity are eligible for a 50 percent fee rebate if they are perpetual usufructuaries.

41.3. The Council of Ministers shall issue an executive order defining the guidelines and procedure for granting the rebate referred to in Paragraph 2 with regard to members of housing cooperatives.

Article 42.1. The value of land, buildings, and other facilities and premises, as well as the fees for land transferred for perpetual usufruct are specified in the contract referred to in Article 19, Paragraph 1.

42.2. The value of land, buildings, and other facilities and premises that are owned by the State Treasury or by a gmina, as well as the fees for administering said land, buildings, and other facilities and premises, are determined by the appropriate district offices of the general government administration, or by the appropriate gmina board, in the ruling on transfer for administration.

Article 43.1. The value of undeveloped and developed land, which is the basis for fee assessment, may be reappraised owing to a change in land prices over periods of not less than one year.

43.2. The value of land transferred for perpetual usufruct is reappraised by a declaration of the district office of the general government with regard to land owned by the State Treasury, or of the gmina board with regard to gmina-owned land.

43.3. The value of land transferred for administration is reappraised by a ruling of the district office of the general government administration with respect to land owned by the State Treasury, or the gmina board with respect to gmina-owned land.

Article 44.1. Land owners are obligated to bear part of the cost of the construction of gas, power, and other municipal utilities in proportion to the rise in the value of their real estate due to said construction (frontage fees).

44.2. The provisions of Paragraph 1 apply correspondingly to the perpetual usufructuaries who enjoy the usufruct of a land plot without being obligated to pay a fee therefor, or who made a lump-sum fee payment for the entire period of perpetual usufruct.

44.3. The value of voluntary services or voluntary financial or in-kind payments contributed to community projects for utility construction is credited to the fees referred to in Paragraph 1.

44.4. The Council of Ministers shall issue an executive order defining the guidelines for the assessment of individual contributions for the purposes referred to in Paragraph 1, the payment procedure, and the rules for granting rebates.

Article 45.1. If a land use plan or a contract or an official ruling entails the obligation of commencing or completing the buildup of a land parcel within a specified period of time, or if it entails the obligation of otherwise developing the land parcel, should said obligation be not fulfilled within that time limit, the district office of the general government administration with respect to land owned by the State Treasury, or the gmina board with respect to gmina-owned land may assess additional annual fees irrespective of the annual fees ensuing from the other provisions of the present law and from the regulations governing the protection of agricultural and forest land. The laying of foundations is construed as the commencement of construction.

45.2. The Council of Ministers shall issue an executive order defining the guidelines and procedure for assessing the fees referred to in Paragraph 1.

Chapter 6. Expropriation of Real Estate

Article 46.1. The provisions of the present chapter apply in cases in which public welfare cannot be promoted without curtailing or revoking the right to the ownership of real estate on behalf of the State Treasury or of a gmina and the real estate cannot be contractually acquired.

46.2. Real estate may be expropriated on behalf of the State Treasury or of a gmina if this is indispensable for the following purposes:

- 1) The construction and maintenance of roads and public transportation facilities, structures and facilities needed to operate communications systems, environmental protection, premises for public offices, communal water intakes, liquid waste treatment, and the erection of flood levees.

- 2) The construction and maintenance of elementary schools, hospitals, welfare homes, sanitary facilities, and cemeteries.

- 3) The construction and maintenance of structures and facilities indispensable to national defense and to assuring public safety, inclusive of the construction and maintenance of penitentiaries and reform schools.

- 4) Organized multifamily housing construction.

- 5) Other evident public purposes.

46.3. The initiation of expropriation proceedings should be preceded by negotiations with the real estate owner with the object of concluding a contract for the purchase of the real estate.

Article 47.1. The expropriation of real estate consists in the revocation or curtailment by means of a legal ruling of the ownership or other property right to the real estate.

47.2. The entire real estate parcel or only a part thereof may be subject to expropriation.

47.3. In the event that public purposes require only a part of real estate parcel and the remainder of the parcel is not suitable for rational utilization in accord with its traditional purpose, its owner may demand that the entire parcel be subjected to expropriation proceedings.

47.4. Expropriated real estate may not be used for other purposes than those specified in the expropriation ruling, unless it cannot be restituted by the procedure defined in Article 69 owing to refusal of the previous owner or his legal successor to take it back.

Article 48.1. Expropriation, compensation, granting of replacement real estate, and restitution of real estate are ruled upon by the district office of the general government administration following a hearing.

48.2. Expropriation proceedings are not governed by the provisions of administrative settlement.

Article 49.1. Expropriation proceedings may be instituted ex officio or on the recommendation of the gmina board only if the real estate in question cannot be acquired by means of a contract.

49.2. The gmina board is obligated to append to its recommendation for expropriation of real estate a record of the negotiations conducted with its owner for the purpose of acquiring it by means of a contract.

49.3. Expropriation proceedings may be initiated following the ineffective expiration of the time limit for concluding the contract referred to in Paragraph 1, as specified by the district office of the general government administration in the notice it addresses to the owner or perpetual usufructuary of the real estate. Said time limit may not be shorter than three months.

Article 50.1. Real estate may be expropriated only on behalf of the State Treasury or a gmina.

50.2. Land owned by the State Treasury may not be expropriated.

Article 51. The expropriation recommendation should specify:

1) Real estate with reference to the pertinent entry in the land register or records, if the latter are available.

2) The purpose of the expropriation, with a rationale for the acquisition of the real estate for that purpose.

3) The surface area of the real estate concerned, or, if the expropriation is to apply to only part of that real estate, the surface area of both that part and the whole.

4) The manner in which the real estate has been utilized so far, and a description of its component parts.

5) Premises which should be provided to persons currently availing themselves of the buildings and premises earmarked for expropriation, and the manner in which these replacement premises shall be provided.

6) The identity of the owner, or of the possessor of the real estate if other than the owner.

7) A record of the negotiations held with the owner for the purpose of acquiring the real estate, as well as other circumstances rendering it impossible to conclude a purchase contract, inclusive of the possibilities for providing the replacement real estate referred to in Article 61.

51.2. The recommendation should come with the following attachments:

1) A ruling on the siting of the investment project.

2) A map of the expropriated area specifying the surface area and borders of the real estate or of the parts thereof included in that area; if the expropriation recommendation concerns more than 50 percent of the area of the real estate concerned as a whole, the map should show the remaining part of the real estate.

3) A certified copy of the entry in the land register attesting to the right to ownership of the real estate concerned, along with records of any liens on the real estate or, if the real estate is not entered in the land register, a certified copy or copies of documents attesting to the right of ownership of the real estate and the existing liens, or

4) A certification from the proper state notarial office to the effect that the real estate in question is not entered in any land register, along with an extract from land and building records identifying the possessor of the real estate.

Article 52.1. The office which rules on the expropriation files with the proper state notarial office an application for including in the land register an entry mentioning that expropriation proceedings were initiated, or, if there is no mention of the real estate in the land register, an application for including the notice of expropriation in the existing archival documents.

52.2. Changes in the legal status of the real estate concerned, made after the entry on the initiation of expropriation proceedings is made in the land register, or after a copy of the notice of expropriation is included in the pertinent archival documents, have no effect on the form and amount of compensation.

52.3. In the event that the expropriation recommendation is disallowed, the office which rules on the expropriation is obligated to delete from the land register or records the entry or notice on the initiation of expropriation proceedings.

Article 53.1. The expropriation ruling should specify in particular:

1) The object of expropriation and the property rights encumbering the expropriated real estate which remain in effect.

2) The location and area of the real estate and the name of its owner in accordance with the guidelines for making entries in the land register, along with information on the applicable land register, and in the event of the absence of mention of the real estate in the land register or in archival documents, the name of the existing possessor according to the actual status of possession.

3) The name of the recommending person and the purpose of the expropriation.

4) The amount of compensation.

5) The names and addresses of persons eligible for the compensation.

6) A detailed factual and legal rationale.

7) An instruction on means of appeal.

53.2. The basis for expropriating real estate that is not entered in a land register or in archival documents is constituted by land and building records. The compensation assessed for such real estate is deposited with a court of law.

53.3. The office which rules on expropriation may, with the consent of the existing owner of the real estate, postpone the assessment of compensation for three months from the date the expropriation ruling is issued, and thereupon to issue a separate ruling on compensation. In this case, compensation is determined in accordance with the prices applying on the day when the compensation ruling is issued.

Article 54.1. In the event that the need arises to prevent any danger, loss, or inconvenience to owners or users of adjoining land due to the expropriation and novel use of the expropriated real estate, the district office of the general government administration specifies in its expropriation ruling the necessary easements and imposes the obligation of the construction and maintenance of suitable facilities by the new perpetual usufructuary, owner, administrator, or user.

54.2. Individuals who sustain losses on the adjoining land owing to the expropriation ruling are eligible for compensation.

Article 55.1. Real estate is expropriated in return for a compensation. The compensation is paid in a lump sum.

55.2. Compensation is paid within not more than 14 days from the date of the expropriation ruling, or from the date on which the ruling referred to in Article 53, Paragraph 3, becomes final.

55.3. The value of the compensation specified in the ruling may be reappraised in consonance with the prices prevailing on the day the compensation is paid.

55.4. The consequences of delays in the payment of compensation are governed by the corresponding provisions of the Civil Code.

Article 56.1. The amount of the compensation should correspond to the value of the expropriated real estate.

56.2. When determining the compensation for agricultural or forest land, allowance is made for its location, quality of soil or timber stand, the presence of equipment and facilities promoting agricultural production or silviculture, and land reclamation measures.

56.3. When determining compensation for land not mentioned in Paragraph 2, allowance is made for its location and degree of development.

56.4. As the need arises, compensation may be determined upon consulting experts or other persons referred to in Article 38, Paragraph 1.

Article 57. In the event that the right to perpetual usufruct is expropriated, the corresponding compensation is determined in the same way as for the ownership of land, with the proviso that the amount of the compensation should be tailored to the actual duration of the perpetual usufruct.

Article 58.1. Compensation for curtailment of the right of ownership should correspond to the percentile decrease in the value of the real estate—a value that is assessed in consonance with the guidelines of Article 56.

58.2. If the curtailment of the right of ownership does not result in reducing the value of the real estate, but merely results in loss of proceeds therefrom, the compensation should not be more than tenfold the annual value of the lost proceeds.

58.4. Compensation for the revocation or curtailment of property rights other than the right of ownership of the real estate may not exceed the amount of the compensation payable for the revocation of the right of ownership.

Article 59.1. Compensation for the planting, cultivation, and harvesting forfeited by the owner owing to expropriation should correspond to the value of the anticipated harvest according to the current market prices minus the potential expenditures of the owner on harvesting operations. The owner is also eligible for reimbursement for the expense of implementing agrotechnical operations.

59.2. Compensation for perennial cropland should cover the outlays linked to its location, the outlays on cultivation until the first harvest, and the value of the proceeds forfeited owing to the expropriation, as reckoned until the end of the entire fruit-bearing period. This compensation is reduced by the sum total of annual depreciation over the years of cultivation of the plantation from the first year of fruit-bearing until the day of expropriation.

59.3. Compensation for a forest stand is determined according to the value of timber or according to the expenses on afforestation and cultivation borne by the owner.

Article 60.1. Compensation for permanent structures and facilities linked to the land should correspond to the

cost of reproducing them minus the extent of their depreciation on expropriation day.

60.2. The provisions of Paragraph 1 apply correspondingly to premises constituting a separate property.

60.3. The Council of Ministers may, in particularly warranted cases, issue executive orders establishing guidelines for determining compensation on more favorable terms than those specified in Paragraph 1.

Article 61.1. The owner of expropriated real estate should be, insofar as possible, granted on demand, by way of compensation, an appropriate replacement real estate.

61.2. The value of the replacement real estate should correspond to the value of the expropriated real estate. Any differences in value are equalized through payment of financial compensation.

61.3. The value of the replacement real estate is determined in accordance with the guidelines for determining compensation for expropriated real estate.

Article 62.1. If the expropriation concerns land under the buildings constituting a farmstead and if no replacement cannot be found for such land, and if the relocation of the farm's buildings and structures is necessary and economically warranted, at the owner's request the expenses of such relocation are defrayed from the State Budget or from the gmina budget depending on whose behalf the land is expropriated.

62.2. If the relocation of the buildings in their present form is not admissible or feasible owing to their condition or other considerations, then, on the owner's request, the expense of erecting new buildings is defrayed from the State Budget or from the gmina budget depending on whose behalf the land is expropriated. The provisions of Article 61, Paragraph 2, apply correspondingly.

Article 63.1. When determining the compensation, the liens with which the expropriated real estate is encumbered by the State Treasury, the gmina, or the banks, are deducted from the value of the expropriated real estate.

63.2. Liens of such creditors as the State Treasury, the gmina, and the banks are amortized if they exceed the value of the expropriated real estate.

Article 64.1. If the expropriated real estate is encumbered by property rights of third parties as specified in the land register or archival documents, compensation may be paid to authorized persons upon their presentation of written consent to the compensation. In the absence of such consent, the amount of compensation due, or the part thereof needed to satisfy claims, should be deposited with the court of law proper for the location of the real estate, with the object of distributing that

amount among the authorized recipients; the distribution follows the provisions governing the distribution of payments resulting from execution concerning real property.

64.2. The amount of compensation payable should likewise be deposited with a court of law in the event that the authorized recipient refuses to accept the compensation, or if the payment of the compensation to the authorized recipient is encountering obstacles.

Article 65.1. The transfer of the right to ownership of real estate to the State Treasury or to a gmina takes place on the day on which the expropriation ruling becomes final.

65.2. The execution of the expropriation ruling may not occur prior to the assignment of replacement real estate, granted pursuant to Article 61, Paragraph 1, to the expropriated owner. The transfer of the right to ownership of replacement real estate takes place on the day on which the ruling conferring the ownership of that estate becomes final.

65.3. Until it is utilized for the purposes for which it was acquired, the expropriated real estate should be, upon the request of its former owner, left in his possession on terms to be stipulated in a lease contract.

Article 66.1. The final expropriation ruling is the basis for making appropriate entries in the land register. To this end, the office issuing the ruling transmits a copy of its final ruling to the proper state notarial office.

66.2. Once the transfer of ownership of real estate is recorded in the land register, the property rights encumbering it are subject to annulment, with the exception of those which the expropriation ruling specifies as binding.

66.3. The duty of exempting replacement real estate from encumbrances rests on the district office of the general government administration.

Article 67. Upon initiating the expropriation proceedings but before issuing the expropriation ruling, the district office of the general government administration may grant permission for an immediate occupation of the real estate concerned if this is warranted by special considerations and if the delay would gravely injure public interest.

Article 68. If the expropriation ruling becomes final during the vegetative season and if not more than five months remain until harvest time, the real estate should be left in the hands of its heretofore owner with the object of enabling him to harvest crops.

Article 69.1. Expropriated real estate is entirely and partially subject to restitution to its former owner or his legal successor upon request if it is no longer needed for the purposes defined in the expropriation ruling.

69.2. The ruling to return real estate to its former owner should specify settling the accounts between the State Treasury or a gmina and the person to whom the real estate is returned.

69.3. The Council of Ministers issues an executive order defining the guidelines and procedure for the settlement of accounts in the event of restitution of expropriated real estate.

69.4. The provisions of Paragraph 1 also apply to real estate transferred to the ownership of the State Treasury under the provisions of the Law dated 31 January 1961 on Rural Construction Areas (Dz.U., No. 27, Item No. 216, 1969; No. 49, Item No. 312, 1972; and No. 22, Item No. 99, 1985) and the Law dated 6 July 1972 on Areas under Single-Family Home Building and Land Plots and on the Subdivision of Real Estate in Cities and Settlements (Dz.U., No. 27, Item No. 192, 1972; No. 48, Item No. 282, 1973; and No. 22, Item No. 99, 1985), and to the real estate expropriated on behalf of state and cooperative farming enterprises, as well as to the land expropriated under separate regulations in connection with the needs of the Tatry National Park.

Article 70.1. The installation, pursuant to investment siting decisions, of drains, conduits, and facilities serving for the transmission of fluids, steam, gases, and electrical energy, as well as of communications and signaling equipment, and also of other underground or surface equipment needed to utilize these conduits and facilities, requires a permit from the district office of the general government administration. Before the permit can be issued, negotiations should be held with the owner of the real estate in question in order to obtain his consent to the execution of the above work.

70.2. The real estate owner is obligated to provide persons and organizations obligated to perform the activities relating to the maintenance and upkeep of the conduits and facilities referred to in Paragraph 1 with access to the real estate in question.

70.3. If the installation of conduits and facilities makes it impossible for the owner of the real estate to continue to derive proceeds from his property in the traditional manner, the real estate is subject to expropriation under the guidelines and by the procedure specified in the present law.

Article 71.1. The district office of the general government administration may permit a state or a communal organizational unit to temporarily occupy real estate with the object of extracting therefrom, in return for financial compensation, the materials (e.g., stones, gravel, and sand) needed to build and maintain highways and waterways as well as for national defense.

71.2. The permit referred to in Paragraph 1 should define the scope and terms of the utilization of the right granted.

71.3. If the activities referred to in Paragraph 1 result in devastating the real estate concerned, it is subject to expropriation on the request of the person whose real estate was temporarily occupied.

Article 72. In the event of a force majeure or an urgent need to avert substantial damage, a voivode may permit a temporary occupation of real estate for a period of not more than six months.

Article 73. The permits referred to in Article 70, Paragraph 1, Article 71, Paragraph 1, and Article 72 may be granted only if the real estate owner does not give his consent to the activities mentioned in these provisions.

Article 74.1. The real estate owner is entitled to receive, from the organizational unit temporarily occupying the real estate, compensation for any losses resulting from that occupation and from the activities referred to in Articles 67, 70, Paragraph 1, Article 71, Paragraph 1, and Article 72.

74.2. The amount of the compensation is, in the event of the absence of an understanding between the parties, determined by the district office of the general government administration upon following the guidelines applying to the expropriation of real estate.

74.3. Compensation for losses relating to planting, cultivation, and harvest should be determined and paid within two months from the date on which losses were incurred, while compensation for other losses should be paid within three months from the date the occupation of real estate is discontinued. If the amount of compensation is determined in the form of a ruling, the time limit for paying the compensation begins with the day on which that ruling becomes final.

Article 75. The provisions of Articles 70-74 apply correspondingly to perpetual usufruct from and the administration and use of real estate.

Chapter 7. The Right of Preemption

Article 76.1. The gmina board has the right of preemption in the event of sale of real estate previously acquired from the State Treasury or from a gmina or transferred for perpetual usufruct, should said real estate not be built up under a buildup permit.

76.2. The right of preemption does not apply if the sale is consummated on behalf of persons authorized to be the legal successors of the person making the sale.

76.3. In real estate transactions between or among legal entities of the same church or of the same religious association, the gmina's right of preemption does not apply.

Article 77. The owner of the real estate referred to in Article 76 may sell it to a third party only on condition that the gmina board does not exercise its right of preemption.

Article 78.1. The right of preemption may be exercised within three months from the date the gmina board receives notice of the terms of the sales contract.

78.2. The duty of notifying the gmina board belongs to the state notarial office at which the sale contract is drafted.

78.3. A declaration of the gmina board on [its intent to] exercise of its right of preemption should be presented in the form of a notarial act. Once this declaration is received, the real estate becomes the property of the gmina.

Article 79. The right of preemption is exercised in return for a price agreed upon between the parties in the sales contract.

Chapter 8. Interim and Final Provisions

Article 80.1 State land used by state organizational units on the effective date of the present law becomes administered by these units.

80.2. For possessors of land owned by the State Treasury or by a gmina, who on 1 August 1988 cannot show that they have land-transfer documents issued in the legally prescribed form, and who fail to apply by 31 December 1988 for a settlement of their legal status, the land in their possession shall be transferred to them for administration, use, or perpetual usufruct. The transfer takes place pursuant to a ruling of the district office of the general government administration with regard to land owned by the State Treasury, or of the gmina boards with regard to gmina-owned land. Rulings of this kind are issued without requiring prior applications for land transfer, within the bounds defined by the boundary and fixed lines in local land use plans or in implementation plans.

80.3. A ruling issued on the matter referred to in Paragraph 2 is the basis for making an entry in a land register.

Article 81.1. Persons who, owing to the outbreak of the war in 1939, left immovable property on land not included in the present territory of the Polish state, and who, by virtue of the international agreements concluded by the Polish state, are to be paid the equivalent value of the property left abroad, are credited with the value of that property when charged fees for perpetual usufruct from land owned by the State Treasury, and the prices they have to pay for Treasury-owned building lots and the houses, buildings, or premises located on these lots, as well as for Treasury-owned agricultural real property, are correspondingly reduced.

81.2. In the event of the crediting of the immovable property referred to in Paragraph 1, the provisions of Paragraphs 25 and 26 do not apply.

81.3. The crediting of the immovable property referred to in Paragraph 1 is done on behalf of the owner of that property or by an authorized heir whom he designates.

81.4. In the event of the demise of the owner of immovable property left abroad, the rights ensuing from Paragraph 1 belong jointly to all of his heirs or to one heir named by qualified persons.

81.5. The crediting of the value of immovable property referred to in Paragraph 1 takes place upon the application of a qualified person, submitted not later than by 31 December 1992. In the event of failure to submit the application by that deadline, the rights ensuing from Paragraph 1 expire.

81.6. The Council of Ministers defines by means of an executive order the manner in which the value of the immovable property left in territory which is not part of the present territory of the Polish State is credited to the fees for perpetual usufruct or to the purchase prices of Treasury-owned building lots and the buildings, houses, or premises standing thereon, as well as to the purchase prices of Treasury-owned agricultural real estate. Said order also shall define the procedure for assessing the value of that abandoned property.

Article 82.1. On the effective date of the present law will expire the rights to compensation for expropriated land, buildings, and other component parts of real estate, envisaged in Article 7, Paragraphs 4 and 5, and Article 8, of the Decree dated 26 October 1945 on the Ownership and Use of Land Within the Boundaries of the Capital City of Warsaw.

82.2. Previous owners of lots that are built up with single-family homes, small apartment buildings, and buildings with not more than 20 rooms, as well as of buildings whose dwellings had been individually owned prior to 21 November 1945 and buildings which had prior to that date been owned by housing cooperatives, or their legal successors, may submit by 31 December 1988 applications for perpetual usufruct from such land. Rulings on granting the right to perpetual usufruct from the abovementioned lots as well as on restoring the buildings to their owners, are made by the district office of the general government administration with regard to land owned by the State Treasury and by the gmina board with regard to gmina-owned land.

82.3. Only one parcel of real estate may be restored to the ownership of any private individual.

82.4. The provisions of Paragraph 2 apply correspondingly to places of worship, monasteries, convents, and other ecclesiastical real estate used in its entirety by former owners or their legal successors. If such real estate is used only partially, the provisions of Paragraph 2 can apply only to that partial extent.

82.5. The provisions of Paragraph 5 do not apply to land transferred for perpetual usufruct to persons other than its former owners, and to land transferred for use.

Article 83.1. The provisions of the present law concerning compensation for expropriated property apply correspondingly to compensation for farms located on

the land which, pursuant to the Decree dated 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw (Dz.U., No. 50, Item zno. 279) became owned by the state, if its previous owners or their legal successors managing the farms had been deprived of actual possession of these farms after 5 April 1958.

83.2. The provisions of the present law concerning compensation for expropriated property apply correspondingly to any single-family homes that became owned by the state after 5 April 1958, as well as to building lots that, prior to the effective date of the decree referred to in Paragraph 1, could be used for single-family home building, if their owners or legal successors of these owners had been deprived of actual possession of that building lot after 5 April 1958. As part of the compensation granted, the previous owner or his legal successors may be assigned for perpetual usufruct a building lot suitable for erecting a single-family home.

Article 84.1. Land owned by the State Treasury which is located in municipal areas but earmarked in land use plans for agricultural use, as well as the Treasury-owned land which has not been transferred for administration, use, or perpetual usufruct, becomes included in the State Land Fund.

84.2. Fees for the use of and perpetual usufruct from the land referred to in Paragraph 1 constitute the revenues of the State Land Fund as of the effective date of the present law.

Article 85.1. Building lots owned by private individuals and established as a result of a subdivision executed in consonance with the regulations and with the local land use plan, should be built up within the time limit specified in the ruling on the subdivision.

85.2. The time limit referred to in Paragraph 1 may be extended. In the event of failure to adhere to the timetable for commencing and completing the construction, Articles 29 and 45 apply.

Article 86. The guidelines and procedure for the expropriation or takeover of real estate defined in special regulations remain binding.

Article 87.1. Proceedings initiated but not completed by a final ruling on compensation prior to the effective date of the present law are continued on the basis of its provisions upon utilizing the evidence gathered.

87.2. Final rulings on transfer of land for perpetual usufruct or on identifying the prospective buyer of a building lot in a rural area, issued prior to the effective date of the present law, constitute the basis for concluding a corresponding contract for perpetual usufruct or sale of the building lot.

Article 88.1. Real estate which became owned by the state under Article 2 of the Law dated 4 July 1947 on Amending the Decree dated 15 November 1936 of the President of the Republic on the Relationship Between

the State and the Evangelical-Augsburg Church in the Polish Republic (Dz.U., No. 52, Item No. 272), may be subdivided to isolate discrete facilities or parts thereof with the object of transferring them to the ownership of religious associations, with priority to be given to the needs of the Evangelical [Protestant] population.

88.2. Rulings on isolating the facilities referred to in Paragraph 1 or their parts with the object of transferring them to religious associations are issued by the voivode in consultation with the minister-chief of the Office of the Council of Ministers.

88.3. The provisions of Paragraph 1 apply if the application for the transfer of the facility or of a part thereof is submitted to the proper local office of the state administration by 31 December 1988.

88.4. Perpetual usufruct from land transferred to religious associations is exempt from fees.

Article 89. The following are hereby declared null and void:

1) The Decree dated 8 March 1946 on Abandoned and Post-German Property (Dz.U., No. 13, Item No. 87, and No. 72, Item No. 395, 1946; No. 19, Item No. 77, and No. 66, Item No. 402, 1947; No. 57, Item No. 454, 1948; and No. 13, Item No. 95, 1969).

2) The Decree dated 21 September 1950 on the Demarcation of Real Estate Owned by the State Treasury or Real Estate Acquired With the Object of Fulfilling National Economic Plans (Dz.U., No. 44, Item No. 398).

3) The Law dated 12 March 1958 on the Guidelines and Procedure for the Expropriation of Real Estate (Dz.U., No. 10, Item No. 64, 1974; and No. 11, Item No. 79, 1982).

4) The Law dated 31 January 1961 on Rural Construction Sites (Dz.U., No. 27, Item No. 216, 1969; and No. 49, Item No. 312, 1972);

5) The Law dated 14 July 1961 on Land Management in Cities and Housing Projects (Dz.U., No. 22, Item No. 159, 1969; No. 27, Item No. 193, 1972; and No. 14, Item No. 84, 1974).

6) The Law dated 6 July 1972 on Areas for Single-Family Home Building and Land Plots and on the Subdivision of Real Estate in Cities and Housing Projects (Dz.U., No. 27, Item No. 192, 1972; and No. 48, Item No. 282).

Proclamation on Responsibilities of Sejm Deputies, Senators

*91EP0525A Warsaw DZIENNIK USTAW in Polish
No 18, 7 Mar 91, Item No 79 pp 206-210*

[Proclamation of the Speaker of the Sejm of the Republic of Poland dated 28 February on the publication of the

uniform text of the Law dated 31 July 1985 on the Responsibilities and Rights of Deputies and Senators]

[Text] Paragraph 1. Pursuant to Article 2 of the Law dated 5 January 1991 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the People's Republic of Poland (Dz.U. [DZIENNIK USTAW], No. 11, Item No. 36), the Appendix to the present proclamation contains the uniform text of the Law dated 31 January 1985 on the Responsibilities and Rights of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 37, Item No. 173) with allowance for the amendments incorporated by the:

1) Decree dated 1 July 1989 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 42, Item No. 230).

2) Law dated 27 December 1989 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 20, Item No. 58, 1990).

3) Law dated 5 January 1991 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 11, Item No. 36).

and the amendments ensuing from the regulations proclaimed before the day on which the uniform text is issued and upon preserving continuous numbering of chapters, articles, paragraphs, and points.

Paragraph 2. The uniform text presented in the appendix to the present proclamation does not comprise the provisions of:

1) Chapter 6 of the Law dated 31 July 1985 on the Responsibilities and Rights of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 37, Item No. 173), to wit:

“Chapter 6. Final Provisions

“Article 33. The present law takes effect on the day of its publication.”

2) Article 2 of the Decree dated 1 July 1989 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 42, Item No. 230), to wit:

“Article 2. The present decree takes effect on the day of its publication.”

3) Articles 2 and 3 of the Law dated 27 December 1989 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 10, Item No. 58, 1990), to wit:

“Article 2. In the Law dated 14 December 1982 on Retirement Benefits for Employees and Their Families (Dz.U., No. 40, Item No. 267, 1982; No. 52, Items No. 268 and No. 270, 1984; No. 1, Item No. 1, 1986; and No.

35, Items No. 190 and No. 192, 1989), in Article 11, Paragraph 2, Point 6, ‘and the mandate of a senator of the Senate of the Polish People's Republic’ is inserted at the end of the sentence.

“Article 3. The present law takes effect on the day of its publication and is retroactive to 1 January 1990.”

4) Article 3 of the Law dated 5 January 1991 on Amending the Law on the Responsibilities and Duties of Deputies to the Sejm of the Polish People's Republic (Dz.U., No. 11, Item No. 36), to wit:

“Article 3. The present law takes effect on the day of its publication.”

Speaker of the Sejm: M. Kozakiewicz

Appendix to the Proclamation dated 28 February 1991 of the Speaker of the Sejm of the Republic of Poland (Item No. 79):

Law dated 31 July 1985 on the Responsibilities and Rights of Deputies and Senators

Chapter 1. General Provisions

Article 1. Deputies and senators are representatives of the voters and perform their mandate in consonance with the will of the voters, on guiding themselves by the good of the Nation.

Article 2.1. Deputies, implementing the constitutional rights of the Sejm, participate in governance by, in particular, taking an active part in:

1) Shaping the principal directions of the activities and policies of the state.

2) Lawmaking.

3) Monitoring the performance of agencies of the state.

2.2. Senators, implementing the constitutional rights of the Senate, participate in governance by, in particular, taking an active part in lawmaking.

Article 3.1. Before commencing to perform his mandate, the deputy swears the Deputy's Oath: “I solemnly swear, as a deputy to the Sejm of the Republic of Poland, to perform honestly and conscientiously my duties to the Nation, to guard the sovereignty of the Fatherland and the good of the citizens, and to adhere to the legal order of the Republic of Poland.”

3.2. Before commencing to perform his mandate, the senator swears the Senator's Oath: “I solemnly swear, as a senator of the Republic of Poland, to perform honestly and conscientiously my duties to the Nation, to guard the sovereignty of the Fatherland and the good of the citizens, and to adhere to the legal order of the Republic of Poland.”

Article 4. Deputies and senators are obligated to treat their mandates as their most important civic duty, and

their primary and fundamental obligation is to participate in the work of the Sejm and the Senate and of the committees of which they are members.

Article 5. Deputies and senators are provided with the conditions needed to effectively perform their responsibilities and to protect their rights ensuing from the exercise of their mandates.

Article 6. The internal organization of the Sejm and the Senate, the ordering of their work, and the attendant responsibilities and rights of the deputies and senators, are defined in detail by the house rules of the Sejm and the Senate.

Chapter 2. Obligations of Deputies and Senators Toward Voters

Article 7. While devoting special attention to matters with which the work of the Sejm or the Senate is concerned, deputies and senators are under the obligation of presenting and explaining to voters the fundamental objectives of government policies and of the laws and resolutions passed.

Article 8.1. Deputies and senators accept opinions, postulates, and recommendations from their voters, voter organizations, and local institutions, consider them, and take them under advisement in their parliamentary activities.

8.2. A deputy or a senator may not be obliged to provide information on persons who entrusted him in his capacity as a deputy or a senator with particular information or opinions.

Article 9. The implementation of the responsibilities of deputies and senators toward their voters is promoted by, in particular:

- 1) The organization of open and community meetings with voters.
- 2) Visits to workplaces by deputies and senators.
- 3) Telethons by deputies and senators.
- 4) Publication of comments by deputies and senators in state mass media.
- 5) The right to participate in the meetings of local-government bodies.

Article 10.1. To enable deputies and senators to exercise their responsibilities toward voters, voivodship offices of parliamentary caucuses and other organizational units to serve deputies and senators in the field may be established.

10.2. The technical-organizational and financial operating conditions of the offices referred to in Paragraph 1 are attended to by the Administrative Office of the Sejm and the Administrative Office of the Senate in cooperation with the voivodes.

Chapter 3. Rights and Duties of Sejm Deputies

Article 11. Participation in the Sejm's work is the right and duty of every deputy. The deputy is obligated to be present and take an active part in the sessions of the Sejm and of the Sejm's bodies to which he is elected.

Article 12. In exercising his duties the deputy has, in particular, the right to:

- 1) Express his position and present proposals on issues considered at the sessions of the Sejm and of the Sejm's bodies to which he is elected.
- 2) Elect and be elected to the Sejm's bodies.
- 3) Turn to the Sejm Presidium with the request to have a particular matter considered by the Sejm or by a Sejm committee.
- 4) Participate—in accordance with the guidelines and procedure defined in the Sejm's house rules—in the initiation of legislation and resolutions and in the consideration of draft legislation and resolutions of the Sejm.
- 5) Participate in the discussion of any matter considered by the Sejm or by a Sejm committee.
- 6) Make—in accordance with the guidelines and procedure defined in the Sejm's house rules—interpellations and ask questions on the floor.

Article 13.1. The proposal and comments of deputies made during the sessions of the Sejm and its committees should be thoroughly considered by the proper state agencies, institutions, and organizations.

13.2. The house rules of the Sejm define the procedure in the cases referred to in Paragraph 1 as well as the procedure and forms of mandatory answers to the interpellations and questions asked on the floor by the deputies and their consideration by the Sejm.

Article 14.1. Deputies may establish parliamentary caucuses or deputies' circles or teams within the Sejm.

14.2. The heads of the caucuses, circles, or teams of deputies notify the Sejm Presidium about their membership and binding internal statutes. The language of these statutes should promote the implementation of constitutional and legal provisions as well as of the responsibilities of the deputies.

14.3. Deputies may establish joint parliamentary caucuses with senators.

14.4. Offices to serve the parliamentary caucuses in the Sejm may be established on the recommendation of the caucus presidium.

14.5. The Sejm Presidium defines the organizational and financial terms for the operation of these offices.

Chapter 4. Rights and Duties of Senators in the Senate

Article 15. Participation in the work of the Senate is the right and duty of every senator. The senator is obligated to be present and take an active part in the work of the Senate as well as of the bodies of the Senate to which he is elected.

Article 16. In exercising his senatorial duties the senator has, in particular, the right to:

1) Express his position and make proposals on matters considered at the sessions of the Senate and its bodies to which he is elected.

2) Elect and be elected to the bodies of the Senate.

3) Turn to the Senate Presidium for consideration of a particular matter by the Senate or by a Senate committee.

4) Participate—in accordance with the guidelines and procedure defined in the Senate's house rules—in the initiation of legislation and resolutions and in the consideration of draft legislation and resolutions of the Senate.

5) Participate in the discussion of any matter considered by the Senate or by a Senate committee.

6) Obtain from members of the Council of Ministers and from representatives of the appropriate state agencies, institutions, and organizations, information and explanations on matters appertaining to the exercise of the duties of a senator.

Article 17. Proposals of the senators, presented during sessions of the Senate and its committees, should be thoroughly considered by the proper state agencies, institutions, and organizations.

Article 18.1. Senators may establish caucuses of senators within the Senate.

18.2. The heads of the Senate caucuses notify the Senate about their membership and internal statutes. The language of these statutes should promote the implementation of the constitutional and legal rights and duties of senators.

18.3. To serve the caucuses of senators, offices of these caucuses may be established, upon the recommendation of the concerned caucus presidiums, at the Administrative Office of the Senate.

18.4. The Senate Presidium defines the organizational and financial operating conditions of these offices.

Chapter 5. Other Rights and Duties of Deputies and Senators

Article 19.1. In exercising their mandate, deputies and senators have the right to obtain any information and materials and to inspect the activities of agencies of state administration, state plants and enterprises, and other entities of the socialized sector.

19.2. Deputies and senators have the right of access to classified state and official information as well as to the premises and facilities in which that information is handled, without having to obtain a special permit, with the exception of access to top secret information that is of special importance to national defense, the Armed Forces, or national security, and that is classified top secret.

19.3. The access of deputies and senators to information classified top secret and the procedure for providing them with access to regular classified state and official information are defined in the regulations governing the protection of state and official secrets.

Article 20.1. Deputies and senators have the right to participate in the sessions and meetings of local-government bodies proper for the electoral districts from which they were elected.

20.2. While attending the sessions and meetings referred to in Paragraph 1 the deputy or senator may offer comments or recommendations.

20.3. The concerned local-government bodies are obligated to provide the conditions for the exercise by the deputy or senator of the rights referred to in Paragraphs 1 and 2.

Article 21.1. Deputies and senators have the right to, as part of the exercise of their duties as deputies and senators, intervene in an agency of state administration or a local-government body, a state plant or enterprise, a social organization, or a nonstate organizational entity, in order to settle a matter raised on their own behalf or on behalf of a voter or voters, as well as in order to familiarize themselves with the manner in which it is handled.

21.2. The agencies and entities referred to in Paragraph 1 in whose activities a deputy or a senator intervenes, are obligated to notify the deputy or senator not later than within 14 days about the status of the matter raised and to resolve it definitively within a time limit agreed upon with the deputy or senator.

21.3. The head of the agency or institution is obligated to immediately receive the deputy or senator arriving with the object of resolving the matter relating to the exercise of his mandate, and to provide all the pertinent information and explanations.

Article 22. Agencies of state administration and local governments, state and local-government plants and enterprises, and social organizations are obligated to provide deputies and senators with every assistance in the exercise of their duties. Any related oversight by the employees of these agencies and organizational entities constitutes a violation of their employment obligations as construed by the Labor Law Code.

Chapter 6. Conditions for Exercise of Mandate

Article 23.1. No deputy or senator may be made accountable under the Penal Law Code or before the penal-administrative authorities, nor may he be placed under arrest, without the consent of, respectively, the Sejm or the Senate.

23.2. The prohibition against arrest without the consent of the Sejm or the Senate referred to in Paragraph 1 also signifies a prohibition against detention or curtailment in any way whatsoever of parliamentary immunity.

23.3. The request of an authorized agency for consent to bringing a deputy or a senator to justice under the Penal Law Code or before the penal-administrative authorities, or for placing him under arrest, is considered by the Sejm or the Senate at a plenary session. The procedure in such cases is defined by the house rules of the Sejm and the Senate.

Article 24.1. A workplace employing a deputy or a senator shall, upon his request, grant him an unpaid leave to enable him to exercise his mandate.

24.2. In the course of the unpaid leave the deputy or senator retains for himself and the members of his family the right to:

- 1) The services of institutions of the public health service.
- 2) Discounts for using the railroads or the buses operated by the State Automotive Transportation.
- 3) Plant housing.
- 4) The benefits of the plant social services fund and the plant housing fund under the rules applying to the employees of the workplace in question.

24.3. The deputy or senator availing himself of the leave referred to in Paragraph 1 receives a corresponding monthly lump-sum salary in his capacity as a deputy or senator.

24.4. In cases other than those referred to in Paragraph 1 the assignment of the monthly lump-sum salary in its entirety or part, and of the attendant benefits, is decided upon by the Sejm Presidium or the Senate Presidium.

24.5. As regards the payments of social security premiums, the remuneration of deputies and salaries is interpreted as remuneration for labor, and the period during which that remuneration is paid is interpreted as an employment period. Said period is also credited to the length of work seniority on which employee benefits hinge, including also special benefits linked to employment in particular professions, subsectors, or workplaces.

24.6. The outlays referred to in Paragraphs 3-5 are defrayed from the State Budget in its part concerning, correspondingly, the Sejm Administrative Office or the Senate Administrative Office.

24.7. The workplace is obligated to employ the deputy or senator following the termination of his unpaid leave in the same or equivalent job position; in this case employment should be undertaken within three months after the termination of the leave.

24.8. The amounts of the remuneration referred to in Paragraphs 3 and 4 are determined correspondingly by the Sejm Presidium or the Senate Presidium.

24.9. The Council of Ministers shall, on the recommendation of the Sejm Presidium and the Senate Presidium, define the forms and scope of the health care provided to deputies and senators by the institutions of the health service.

Article 25.1. The workplace employing the deputy or senator is obligated to provide him with the proper conditions for the exercise of his parliamentary duties. During his absence relating to the exercise of these duties the deputy or senator receives the same remuneration as when taking a leave.

25.2. The outlays on the remuneration referred to in Paragraph 1 are refunded to the workplace from the State Budget in its part concerning, correspondingly, the Sejm Administrative Office or the Senate Administrative Office, at intervals of three months each, upon the request of the workplace.

Article 26.1. The termination of labor relationship with a deputy or a senator or the alteration of their working conditions and wages without their consent during their mandate or within two years following the expiration of their mandate, may not occur without the consent of, correspondingly, the Sejm Presidium or the Senate Presidium.

26.2. A labor relationship valid for a specified period of time which expires prior to the expiration of a deputy's or a senator's mandate is subject to extension until the end of three-month period reckoned from the expiration date of the mandate.

26.3. A labor relationship with a school or university teacher may not expire earlier than by the end of the school (academic) year subsequent to the expiration of the period referred to in Paragraph 2.

Article 27.1. In connection with the exercise of their mandate, deputies and senators receive expense allowances compensating them for the expenditures on exercising their mandate.

27.2. Expense allowances are tax-exempt.

27.3. The expense allowances referred to in Paragraph 1 are payable from the State Budget in the part thereof relating to, correspondingly, the Sejm Administrative Office and the Senate Administrative Office.

27.4. The amounts of expense allowances and the procedure for their disbursement are jointly defined by the Sejm Presidium and the Senate Presidium.

Article 28. Deputies and senators receive gratis copies of official journals of record and other official publications in consonance with lists determined by the Sejm Presidium and the Senate Presidium and also, correspondingly, all the publications and prints issued by the Sejm and the Senate.

Article 29.1. Deputies and senators have the right to free transit on state-owned means of transportation throughout the country as well as to free flights on domestic airlines and free use of means of public rapid transit.

29.2. The appropriate ministers, with the consent of the Sejm Presidium and the Senate Presidium, define the conditions for the exercise of these rights.

Article 30.1. Deputies are issued deputies' identity cards.

30.2. Senators are issued senators' identity cards.

30.3. Sample identity cards are determined by, correspondingly, the Sejm Presidium and the Senate Presidium.

Article 31.1. The Sejm Presidium and the Senate Presidium grant, correspondingly, to deputies and senators the necessary assistance in their work and monitor the

exercise of their parliamentary duties as well as the exercise by state agencies and other organizational entities of the duties defined in the present law vis a vis deputies and senators.

31.2. The Sejm Administrative Office and the Senate Administrative Office provide and organize appropriate services enabling deputies and senators to exercise their responsibilities as well as substantive assistance, especially as regards access to professional studies, literature, and expertises, as well as other organizational, material, and technical conditions.

31.3. The tasks of the Sejm Presidium and the Sejm Administrative Office, and of the Senate Presidium and the Senate Administrative Office, to the extent referred to in Paragraphs 1 and 2, are defined in detail by the corresponding house rules of the Sejm and the Senate.

Article 32. 1. The Sejm Administrative Office and the Senate Administrative Office provide deputies and senators, as well as former deputies and senators, in justified cases, with welfare assistance.

32.2. The guidelines for and forms of the assistance referred to in Paragraph 1 are defined correspondingly by the Sejm Presidium and the Senate Presidium.

Croatian Law on Citizenship

*91BA0882A Zagreb VJESNIK in Serbo-Croatian
27 Jun 91 p 18*

[“Text” of Croatian Law on Citizenship]

[Text]

LAW ON CROATIAN CITIZENSHIP**I. GENERAL REGULATIONS****Article 1**

Croatian citizenship and preconditions for obtaining it and terminating it are determined under this law.

Article 2

A citizen of the Republic of Croatia who also has foreign citizenship is considered before bodies of the government of the Republic of Croatia to be exclusively a Croatian citizen.

II. OBTAINING CITIZENSHIP**Article 3**

Croatian citizenship is obtained through:

1. being of Croatian descent;
2. being born in the territory of the Republic of Croatia;
3. naturalization;
4. international agreements.

Article 4

A child obtains Croatian citizenship by being of Croatian descent when:

1. both parents are Croatian citizens at the moment of his birth;
2. one parent is a Croatian citizen at the moment of his birth, and the child is born in the Republic of Croatia;
3. one parent is a Croatian citizen at the moment of his birth, while the other is without citizenship or of unknown citizenship, and the child is born abroad.

Croatian citizenship is also obtained through Croatian descent by a child of foreign citizenship or without citizenship, if Croatian citizens have adopted him as a member of the family according to the provisions of a special law. Such a child is considered a Croatian citizen from the moment of birth.

Article 5

Croatian citizenship is obtained through Croatian descent by a child when one parent is a Croatian citizen at the moment of the child's birth, although he is born abroad, if he has a registered residence or lives in the

Republic of Croatia. Such a child is considered a Croatian citizen from the moment of birth.

Article 6

A child of a Croatian citizen who is born abroad, but does not have a registered residence or live in the Republic of Croatia, obtains Croatian citizenship if he gives a written statement that he considers himself a Croatian citizen. Such a child is considered a Croatian citizen from the moment of birth.

Article 7

Croatian citizenship is obtained by a child who is born or is found in the territory of Croatia, if both his parents are unknown or are of unknown citizenship or without citizenship. The child's Croatian citizenship will be revoked if before his 14th birthday he declares that both parents are foreign citizens.

Article 8

Croatian citizenship may be obtained through Croatian descent by a foreigner who has submitted a request to obtain Croatian citizenship if he meets these preconditions:

1. he has reached his 18th birthday;
2. he has revoked his foreign citizenship, or submits proof that it will be revoked if he obtains Croatian citizenship;
3. he has had a registered residence for at least five years without interruption in the territory of Croatia before submitting his request;
4. he knows the Croatian language and the Latin alphabet;
5. from his behavior it can be concluded that he respects legal order and the customs of the Republic of Croatia and accepts the Croatian culture.

It will be considered that the precondition under the first part of subparagraph 2 of this article has been satisfied if the claim has been submitted by a person who is without citizenship or who will lose it, according to the law of the country of which he is a citizen, just by virtue of being naturalized.

If the foreign state does not allow the revocation, or poses preconditions for the revocation that cannot be satisfied, a statement by the person who has submitted the application, to the effect that under the precondition of obtaining Croatian citizenship the foreign citizenship is revoked, is sufficient.

Article 9

A person who was born in the territory of the Republic of Croatia, and up to the submission of the application has had a legally registered residence in the Republic of Croatia for at least five years, can obtain Croatian

citizenship even though he does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1, 2 and 4 of this law.

Article 10

A foreigner who has been married to a Croatian citizen for at least three years at the time of submission of the application can obtain Croatian citizenship through naturalization even though he does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Article 11

An emigrant and his descendants can obtain Croatian citizenship through naturalization even though they do not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

A foreigner who has been married to an emigrant who has obtained Croatian citizenship within the context of the regulation in paragraph 1 of this article can obtain Croatian citizenship, even though he does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Within the meaning of paragraph 1 of this article, an emigrant is a person who emigrated from Croatia with the intention of living abroad permanently.

Article 12

When obtaining Croatian citizenship by a foreigner is in the interest of the Republic of Croatia, the foreigner may obtain Croatian citizenship through naturalization even though he does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Croatian citizenship can also be obtained by the spouse of a person falling under the regulation of the first paragraph of this article who has obtained Croatian citizenship, even though the spouse does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Article 13

Croatian citizenship can be obtained by a minor child through naturalization if:

1. both parents obtain citizenship through naturalization, or
2. only one of the parents obtains citizenship through naturalization, and the child lives in the Republic of Croatia, or
3. only one of the parents obtains citizenship through naturalization, the second is without citizenship or of unknown citizenship, and the child lives abroad.

Within the meaning of paragraph 1 of this article, a minor child of a person falling under the regulations of article 9 of this law also obtains citizenship through naturalization.

Article 14

A minor child of foreign citizenship or without citizenship, whom a Croatian citizen has adopted as a member of the family, obtains Croatian citizenship with the application of the adoptive parent, even though he does not fulfill the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Article 15

A Croatian citizen who has sought and obtained revocation of Croatian citizenship upon obtaining foreign citizenship, where the foreign country in which he resides has imposed this on him as a precondition for performing some sort of duty or activity, can again obtain Croatian citizenship, even though he does not satisfy the preconditions under article 8, paragraph 1, subparagraphs 1-4 of this law.

Article 16

A member of the Croatian people who does not have a residence in the Republic of Croatia can obtain Croatian citizenship if he satisfies the preconditions under article 8, paragraph 1, subparagraphs 4 and 5 of this law and submits a written statement that he considers himself a Croatian citizen.

The statement mentioned in paragraph 1 of this article is submitted to an authorized body or a diplomatic or consular representation of the Republic of Croatia abroad.

III. TERMINATION OF CITIZENSHIP

Article 17

Croatian citizenship is terminated:

1. through revocation;
2. through renunciation;
3. under international agreements.

Article 18

Revocation of Croatian citizenship can be granted to a person who has submitted a request for revocation and satisfies the following preconditions:

1. he has reached his 18th birthday;
2. there is no interference with his military obligation;
3. he has settled taxes owed and other public debts and obligations to legal and physical entities in the Republic of Croatia for which an executive title exists;

4. he has legally settled property obligations from his marriage and from the relationships of his parents and children with Croatian citizens and parties who continue to live in the Republic of Croatia;
5. he has foreign citizenship or has proved that he will obtain foreign citizenship.

Revocation of Croatian citizenship cannot be obtained by a person against whom a penal procedure is pending due to an act that is being pursued according to official duties, or if he has been sentenced to a jail term in the Republic of Croatia, until that term is served.

Article 19

A decision on revocation of Croatian citizenship will be declared invalid by special resolution, at the request of the person who has obtained the revocation, if he does not obtain foreign citizenship within one year from the day of the publication of the decision on revocation in NARODNE NOVINE, and if he continues to live in the Republic of Croatia.

A decision on revocation of Croatian citizenship will be declared invalid by special resolution, at the request of the person who has obtained the revocation and emigrated from the Republic of Croatia, if he has not obtained foreign citizenship within three years from the day of emigrating and has informed a diplomatic or consular representation of the Republic of Croatia abroad, or directly informed the body responsible for rendering decisions on revocation about this within the subsequent three years.

Article 20

Croatian citizenship is terminated through revocation for a child up to his 18th birthday:

1. at the request of both parents whose Croatian citizenship has been terminated through revocation;
2. if Croatian citizenship has been revoked for one of the parents and the other is a foreign citizen.

A child up to 18 years of age, adopted by foreign citizens as a member of the family, will lose his Croatian citizenship at the request of the adoptive parents.

Article 21

An adult Croatian citizen who was born in Croatia and resides abroad and who also has foreign citizenship, may renounce his Croatian citizenship by his 25th birthday.

An adult Croatian citizen who was born abroad and resides abroad, and who also has foreign citizenship, may renounce Croatian citizenship.

The right to renounce Croatian citizenship is not granted to a person:

1. against whom a penal procedure is pending in the Republic of Croatia because of an act that is being

pursued according to official duties, or who has been sentenced to a jail term in the Republic of Croatia and has not served that sentence;

2. whose military obligation is being interfered with;
3. who has not settled taxes owed and other public debts and obligations to legal and physical entities in the Republic of Croatia for which an executive title exists;
4. who has not legally settled property obligations from his marriage and from the relationships of his parents and children with Croatian citizens and parties who continue to live in the Republic of Croatia.

A statement on renouncing Croatian citizenship is given to a diplomatic or consular representation abroad or to the body responsible for rendering decisions on the renunciation of citizenship.

Article 22

Croatian citizenship is terminated through renunciation for a child up to his 18th birthday:

1. at the request of the parents whose citizenship has been terminated through renunciation; or
2. if citizenship has been terminated in this manner for one of the parents, and the other is a foreign citizen.

A child up to 18 years of age, adopted by foreign citizens as a member of the family, will lose his Croatian citizenship through renunciation at the request of the adoptive parents.

Article 23

A person who, as a minor, has lost his Croatian citizenship under article 20 or 22 of this law, regains his Croatian citizenship if he resides in the Republic of Croatia and if he submits a written statement that he considers himself to be a Croatian citizen.

IV. PROCEDURAL REGULATIONS

Article 24

A request for obtaining or for terminating citizenship is submitted to a police administration or a police station.

A request for obtaining or for terminating citizenship can be submitted through a diplomatic or consular representation of the Republic of Croatia abroad.

For a minor child, a parent submits a request for obtaining citizenship or a written statement that he considers himself a Croatian citizen.

The agreement of a child older than 14 years of age is necessary for obtaining or terminating citizenship.

Article 25

Functions regarding citizenship are carried out by police administrations or police stations, and decisions on

obtaining and terminating citizenship are rendered by the minister of Internal Affairs.

Valid decisions on obtaining or terminating citizenship are published, along with names, in NARODNE NOVINE.

Article 26

The Ministry of Internal Affairs will deny a request for obtaining or terminating citizenship if the preconditions have not been fulfilled, except where otherwise specified in this law.

The Ministry of Internal Affairs can deny a request for obtaining or terminating citizenship, although the preconditions have been fulfilled, if it determines that there are reasons, from the standpoint of the interests of the Republic of Croatia, that the request for obtaining or terminating citizenship should be denied.

In explanations of the decisions on rejecting requests for obtaining citizenship, the reasons for the rejection of the requests need not be cited.

Article 27

Records are kept on Croatian citizenship.

The district records office keeps records on citizenship and on Croatian citizens who reside abroad and have an authorized diplomatic or consular representation of the Republic of Croatia abroad.

Persons born in the Republic of Croatia are registered in the records on citizenship kept by the records office of the district in which the birthplace of those persons is located.

Persons born abroad are registered in the records on citizenship kept by the records office of the district in which the residence of the person submitting the request for obtaining or terminating citizenship is located.

Persons who receive Croatian citizenship on the basis of the provisions of this law, and do not reside in the Republic of Croatia, are registered in a central record.

Article 28

The district records office issues a certification of Croatian citizenship.

The Ministry of Internal Affairs is responsible for carrying out the procedure for confirming citizenship.

Article 29

Croatian citizenship is evidenced by a valid personal identity card or military identification or travel document.

A Croatian citizen who does not have any of the documents under paragraph 1 of this article, can prove

Croatian citizenship with a certification of citizenship issued by the district records office on the basis of records on citizenship.

V. PROVISIONAL AND FINAL REGULATIONS

Article 30

A person who has acquired Croatian citizenship according to the regulations valid from the day this law goes into effect is considered a Croatian citizen.

A member of the Croatian people who, on the day this law goes into effect does not have Croatian citizenship, but on the day in question has had a registered place of residence in the Republic of Croatia for at least 10 years, is considered a Croatian citizen if he submits a written statement that he considers himself a Croatian citizen.

The written statement under paragraph 2 of this article is submitted to the records office of the district in whose area the person resides.

Confirmation of the precondition under paragraph 2 of this article is carried out by a police administration or police station. If it determines that all preconditions have been fulfilled, it will enter a registration in the record on citizenship without rendering a written decision. If it determines that all preconditions have not been fulfilled, it will deny the request by decision.

The period for submitting a written statement under paragraph 2 of this article is six months if the person lives in the Republic of Croatia, or one year if he lives abroad, and the periods begin to run from the day this law goes into effect.

Croatian Law on Personal Identity Cards

91BA0882B Zagreb VJESNIK in Serbo-Croatian
27 Jun 91 p 18

[“Text” of Croatian Law on Personal Identity Cards]

[Text]

LAW ON PERSONAL IDENTITY CARD

Article 1

A personal identity card is a public document with which a citizen indicates his identity, Croatian citizenship, date and place of birth, and home address.

Article 2

A person older than 16 years of age must have a personal identity card. A person younger than 16 years of age also has the right to a personal identity card.

Article 3

A police administration or police station of the Ministry of Internal Affairs (henceforward: the authorized body)

issues the personal identity card according to the home address of the person to whom the personal identity card is issued.

Article 4

The personal identity card is issued on a prescribed form.

The form of the personal identity card contains: the title "Republic of Croatia" with the imprinted coat of arms of the Republic of Croatia, the inscription "personal identity card," the designation of the series and the serial number, the date of issuance and the validity period of the personal identity card, a place for the name and the seal of the authorized body that issued the personal identity card, and a place for the signature of the official.

The form of the personal identity card also contains a place for a photograph, the citizen's own signature, and space for the following information: name, surname, maiden name, date, place, district and state of birth, the citizen's own registration number, and address of residence.

The form of the personal identity card also contains space for entering changes in information about the home address.

The form of the personal identity card also has a space for automatic scanning which contains the citizen's own registration number and the series and serial number of the personal identity card.

The Ministry of Internal Affairs determines the cost of issuing the personal identity card, which is borne by the applicant.

Article 5

A request for issuance or replacement of a personal identity card is submitted within 30 days of the applicant's 16th birthday, or after the expiration of the validity period of the personal identity card, or after the occurrence giving cause for replacement of the personal identity card.

A request under paragraph 1 of this article is submitted on a prescribed form.

A personal identity card is issued or replaced at the individual's request.

For persons younger than 16 years of age, a request for issuance or replacement of a personal identity card is submitted by a parent or other legal representative.

Article 6

Two photographs of a prescribed size, which accurately portray the person to whom the personal identity card is being issued, are attached to a request for issuance of a personal identity card.

Upon submitting the first request for issuance of a personal identity card, the citizen must present proof of Croatian citizenship to the authorized body.

Along with a request for issuance of a personal identity card, a previously issued personal identity card or other identity document, from which the identity of the applicant can be verified, is submitted to the authorized body for inspection. After inspecting the personal identity card submitted, the authorized body will destroy it.

When necessary, the authorized body can also demand other proof about the identity of the applicant, as well as his personal presence, in order to confirm his identity or because of other factors of importance for the disposal of the request.

The person for whom the request for issuance of a personal identity card is submitted must give a fingerprint of the right index finger.

Article 7

A citizen must submit a request for replacement of his personal identity card:

1. when there is a change in anyof the information contained on the personal identity card;
2. when it is damaged or worn out enough that it no longer serves its purpose;
3. when the photograph on the personal identity card no longer matches the appearance of the citizen.

The personal identity card should not be replaced in a case where the home address changes if there is space on the form of the personal identity card for entering the change in this information.

At the request of the citizen, the personal identity card will be replaced even when the reasons under subparagraphs 1 and 2 of this article do not pertain.

Article 8

The authorized body must issue the personal identity card immediately, but no later than 15 days from the receipt of the application for issuance of a personal identity card.

If the authorized body does not issue a personal identity card to the applicant immediately, a confirmation will be issued on a prescribed form which serves as proof of submission of the request for issuance of a personal identity card.

Article 9

A personal identity card is issued with a validity period of 10 years. For persons younger than 27 years of age, a personal identity card is issued with a validity period of five years.

For persons older than 65 years of age, a personal identity card with permanent validity is issued.

Article 10

A citizen must give accurate and truthful information on a request for issuance of a personal identity card.

Article 11

A citizen must:

1. have his personal identity card with him and present it for inspection to persons lawfully authorized to do so;

2. report changes in the home address or other information contained on the personal identity card to the authorized body within 30 days after the need for the change arises.

A citizen may not give his personal identity card to someone else for the latter to use, nor may he use someone else's personal identity card as his own.

Article 12

A citizen must report the loss, disappearance, or theft of the personal identity card immediately after learning about it to the authorized body, according to the location of the occurrence or where he discovered the card missing.

The authorized body under paragraph 1 of this article must issue a confirmation about the loss, disappearance, or theft of the personal identity card with the aim of issuing a new personal identity card.

The authorized body under article 3 of this law will issue a personal identity card after it confirms that the citizen has reported the loss, disappearance, or theft of his personal identity card, at his expense, in NARODNE NOVINE.

Article 13

The authorized body keeps a record on personal identity cards issued.

The authorized body that keeps records under paragraph 1 of this article must, upon a request from state bodies and legal parties who have a legal interest in this, give information from these records.

The authorized body will refuse to give information from the records if the submitter of the request does not prove the existence of a legal interest, or if a reasonable doubt exists that the information from these records will be properly used.

The Ministry of Internal Affairs will prescribe forms under articles 4 and 5 of this law and the method of keeping the records prescribed under this law.

Article 14

The following persons, who commit the indicated violations, will be punished with a fine of 1,000 to 3,000 dinars:

1. anyone who does not submit a request for a personal identity card by the prescribed deadline (article 5, paragraph 1, and article 16);

2. anyone who does not request replacement of a personal identity card by the prescribed deadline and in the prescribed cases (article 5, paragraph 1);

3. anyone who does not have his personal identity card with him, and it is not possible to confirm his identity otherwise (article 11, paragraph 1, subparagraph 1);

4. anyone who does not report the loss, disappearance or theft of his personal identity card without delay (article 12, paragraph 1);

5. anyone who does not report a change in information by the prescribed deadline and in the prescribed cases (article 11, paragraph 1, subparagraph 2).

Article 15

The following persons, who commit the indicated violations, will be punished with a fine of 1,500 to 5,000 dinars:

1. anyone who submits a request for issuance or replacement of a personal identity card with inaccurate or untruthful information (article 10);

2. anyone who refuses to submit his personal identity card for inspection to an authorized official (article 11, paragraph 1, subparagraph 1);

3. anyone who gives his personal identity card to someone else for the latter's use or uses someone else's identity card as his own (article 11, paragraph 2).

Article 16

Personal identity cards issued under current regulations are valid for no longer than two years from the day this law goes into effect.

Article 17

The minister of Internal Affairs will issue regulations under article 4, article 5, and article 13 of this law within 60 days after this law goes into effect.

Article 18

On the day that this law goes into effect, the Law on the Personal Identity Card (NARODNE NOVINE no. 54/74) and the provision in article 10 of the Law on Changes in and Amendments to the Law Regulating Fines for Economic Offenses and Violations (NARODNE NOVINE no. 47/89) cease to be valid.

On the day this law goes into effect, the Law on Basic Information for the Personal Identity Card (SLUZBENI LIST SFRJ no. 6/73) no longer applies in the territory of the Republic of Croatia.

Article 19

Prior to the issuance of regulations under article 2, article 4, and article 13 of this law, the Manual of Instructions on the Form for Applying for the Issuance of the Personal Identity Card and on the Form for the Personal Identity Card, as well as on the Method for Taking Fingerprints and the File on Personal Identity Cards Issued (NARODNE NOVINE no. 19/75 and 42/91), insofar as this law is not contradicted, will apply.

Article 20

This law goes into effect on the day of its publication in NARODNE NOVINE.

Croatian Law on Ministry of Foreign Affairs

91BA0882C Zagreb VJESNIK in Serbo-Croatian
27 Jun 91 p 19

[Law specifying the conduct, organization, and activities of the Ministry of Foreign Affairs in the state of Croatia]

[Text]

LAW ON FOREIGN AFFAIRS

I. GENERAL REGULATIONS

Article 1

This law specifies the method for conducting affairs within the area of international relations in the Republic of Croatia, as well as the basic organizations and activities of the Ministry of Foreign Affairs of the Republic of Croatia.

Article 2

Organs of the Republic of Croatia operate in the area of international relations on the basis of an established foreign policy for the Republic of Croatia and basic principles of international law and international relations.

Article 3

In conducting activities within the area of international relations, administrative organs of the Republic of Croatia cooperate with each other, as well as with other organs, institutes and establishments, both domestic and abroad, and with physical and legal parties.

Cooperation is achieved through mutual communication, coordination of activities, and agreement on the performance of individual tasks and those responsible for them.

Article 4

The administrative organ responsible for foreign affairs is the Ministry of Foreign Affairs.

The Ministry carries out the established foreign policy of the Republic of Croatia and conducts affairs and tasks placed under its authority by this law and other regulations.

The Ministry participates in determining the foreign policy of the Republic of Croatia.

Article 5

The Ministry of Foreign Affairs, at the request of the president of the Republic, the government, and administrative organs of the Republic of Croatia, or on its own initiative, expresses opinions about the interests of the Republic of Croatia in the area of foreign policy, as well as presents proposals for initiating and developing activities in the area of foreign policy and international relations.

Article 6

The Ministry of Foreign Affairs, as needed, participates in establishing contacts with foreign countries through representations of the Republic of Croatia abroad and the representations of other countries and international organizations in the Republic of Croatia.

II. MINISTRY OF FOREIGN AFFAIRS

1. Functions and Organization

Article 7

The Ministry of Foreign Affairs carries out its affairs and functions directly through representations of the Republic of Croatia abroad.

The affairs and functions within the sphere of work of the Ministry of Foreign Affairs are those of specifically:

1. representing the Republic of Croatia in other countries and international organizations;
2. developing and promoting the relations of the Republic of Croatia with other countries and international organizations, as well as proposing appropriate resolutions to authorized bodies;
3. following the development of international economic relations, as well as proposing appropriate resolutions to authorized bodies;
4. protecting the interests of the Republic of Croatia and its physical and legal entities abroad;
5. carrying out specialized preparations for talks and negotiations with representatives of other countries and international organizations;

6. carrying out specialized tasks set forth in the Law on Concluding and Implementing International Agreements;
7. supporting and assisting, through authorized bodies and in cooperation with foreign countries, the political, economic, cultural, scientific and other areas;
8. following the development and the discussion of questions in the sphere of international law;
9. maintaining and developing all contacts with representations of foreign countries and international organizations in the Republic of Croatia;
10. continuing interest, in cooperation with authorized bodies in the Republic of Croatia, in the status of Croats who live—under any circumstances—outside the homeland.

The organization of the Ministry of Foreign Affairs is determined by the Manual of Instructions on the Internal Organization and the Operations of the Ministry of Foreign Affairs.

Article 8

The minister of foreign affairs can appoint a Council of the Ministry as an advisory organ. Members of the council must be well-known, experienced public officials who deal with international relations, and the minister of Foreign Affairs appoints them for a term up to removal or replacement.

Article 9

The Ministry of Foreign Affairs pays constant attention to the education of personnel who will work in the Ministry and the representations of the Republic of Croatia abroad, as well as to their advanced training.

The forms of the education can include a diplomatic academy, a diplomatic school, courses, seminars, advanced lectures, examinations, and others.

2. Representations Abroad

Article 10

Representations of the Republic of Croatia abroad are embassies (large legations), missions (legations), consulates, and cultural-informational centers.

Embassies (large legations) are opened in the principal cities of individual countries. Representations in international organizations are missions (legations), and can also have the rank of embassy (large legation). Consulates can have the rank of general consulate, consulate and vice consulate, the heads of which can be career or honorary consuls.

Embassies (large legations), consulates, and cultural-informational centers are opened by the president of the Republic of Croatia by decision, upon the proposal of

the government of the Republic of Croatia by decision, and upon the proposal of the government of Croatia.

Article 11

Persons employed in the representations of the Republic of Croatia abroad are on working status for a specific or unspecific time in the Ministry of Foreign Affairs.

Article 12

Diplomatic representatives and consular officials of the Republic of Croatia abroad enjoy privileges and immunities in accordance with international law.

Article 13

Resources for the work and activities of representations of the Republic of Croatia are allocated for in the budget of the Republic of Croatia.

Article 14

The Ministry of Foreign Affairs is concerned with the renting, purchase, building, and maintenance of fixed assets abroad that are necessary for the performance of the functions of the representation.

Article 15

The president of the Republic places and recalls chiefs of representations of the Republic of Croatia abroad by decree, and issues letters of accreditation (credentials) to extraordinary and plenipotentiary ambassadors (senior envoys) and chiefs of mission (ambassadors).

Article 16

The embassy (large legation) performs functions cited in the Vienna Convention on Diplomatic Relations, but especially:

- represents the Republic of Croatia in the host country;
- protects the interests of the Republic of Croatia and its physical and legal entities in the host country;
- develops friendly relations in cooperation between the Republic of Croatia and the host country;
- informs official bodies of the Republic of Croatia about conditions and the situation in the host country;
- informs the host country about conditions and the situation in the Republic of Croatia.

The embassy (large legation) pursues activities mainly in the political-diplomatic, consular, economic, cultural-educational, scientific-technical, and informational sphere.

Article 17

Diplomatic representatives accredited in two or more countries perform the same functions in the country where they are based as in the other countries for which they are accredited.

Article 18

The president of the Republic concludes an agreement, as necessary, with the corresponding body of the other country on undertaking the protection of interests in a third country.

Article 19

The government of the Republic of Croatia determines the rank of the consulate and the consular sphere in cooperation with the host country.

Career or honorary consuls may be at the head of a consular representation.

The president of the Republic of Croatia appoints chiefs of consular representations based on the recommendation of the government of Croatia.

Article 20

The president of the Republic of Croatia issues letters patent to chiefs of consular representations.

The minister of foreign affairs issues letters patent to other consular officials.

Article 21

Consulates perform functions cited in the Vienna Convention on Consular Affairs, but they especially:

- protect the interests of the Republic of Croatia and its physical and legal entities;
- inform authorized bodies in the Republic of Croatia about conditions and the situation in the host country;
- inform the host country about conditions and the situation in the Republic of Croatia;
- develop cooperation with Croatian emigrants and promote the preservation of their national and cultural identity;
- extend assistance to citizens of the Republic of Croatia in assuring their working, social, and other rights in the host country;
- perform administrative functions and tasks in the sphere of foreign affairs, general administration, recordkeeping, social care, and others;
- assist in the activities of Croatian enterprises and other economic organizations;
- support the development of cultural relations.

Article 22

Honorary consular officials are citizens of the host country or citizens of the Republic of Croatia who enjoy good standing in the country in question, and through their work and relationship with the Republic of Croatia guarantee the acceptable performance of the duties entrusted to them.

Provisions of the Vienna Convention on Consular Relations are applied to honorary consuls.

Article 23

Honorary consular officials operate according to the directives of the minister of foreign affairs, and the Republic of Croatia bears the costs for the work of consulates.

Article 24

Cultural-informational centers perform specific functions abroad in the sphere of information and culture.

Cultural-informational centers of the Republic of Croatia abroad are established by decision of the government of the Republic of Croatia, which appoints the directors of the centers.

III. EMPLOYEES OF THE MINISTRY OF FOREIGN AFFAIRS WORKING ABROAD**1. General Regulations****Article 25**

Employees of the Ministry of Foreign Affairs working abroad (employees abroad in the following text) are career diplomats, diplomats under contract, administrative-technical personnel and support personnel.

2. Career Diplomats**Article 26**

Career diplomats are employees who fulfill conditions for specialized functions in the diplomatic, consular or domestic service.

Career diplomats have a working relationship with the Ministry of Foreign Affairs for an unspecified time.

Article 27

The minister of foreign affairs determines the conditions for performing duties under Article 26, paragraph 1, according to a manual of instructions issued with the agreement of the government of the Republic of Croatia.

The manual of instructions under paragraph 1 of this article particularly determines the following questions:

- the method of and conditions for entering the service;
- advancing and transferring in the service;
- titles and categories in the foreign affairs service;

- assignments to representations of the Republic of Croatia abroad;
- rights and scheduling for returning from representations of the Republic of Croatia abroad;
- labor and legal questions, as well as questions of medical and social welfare.

Article 28

Before entering the service, career diplomats must pass an examination, the content of which is determined by the minister of foreign affairs by special act.

Career diplomats begin work in the foreign affairs service, as a rule, in the lowest category in the domestic service.

Career diplomats may not be members of political parties.

Alternative:

Paragraph 3 is dropped.

3. Diplomats Under Contract

Article 29

Diplomats under contract are employees who meet the conditions for performing specialized functions in the foreign affairs service mentioned under Article 27 of this law, and establish a working relationship with the Ministry of Foreign Affairs for a specific period which, as a rule, may not exceed four years, for performing specialized functions in the diplomatic or consular service. In exceptional cases, this period may be extended by not more than one year if there exist particularly justifiable reasons for it; the government of the Republic of Croatia makes the decision about this.

Article 30

The conditions for establishing a working relationship with diplomats under contract are determined in the manual of instructions mentioned under Article 27 of this law.

When a working relationship is established with contract diplomats, the possibilities of filling this position from the ranks of career diplomats first are taken into account.

Diplomats under contract may not be members of political parties.

Alternative:

Paragraph 3 is dropped.

4. Administrative-Technical and Support Personnel

Article 31

Administrative-technical and support personnel perform administrative, technical, and support functions and

tasks in the Ministry of Foreign Affairs and in representations of the Republic of Croatia abroad.

The chief of a representation of the Republic of Croatia abroad may also, with the prior approval of the minister of foreign affairs, draw up a contract for the performance of administrative-technical and support functions with citizens of the host country who fulfill the conditions for the performance of these functions.

With the drawing up of a contract under paragraph 2 of this article, the regulations of the host country are respected.

5. Rights and Obligations of Employees

Article 32

The government of the Republic of Croatia may, upon the recommendation of the Ministry of Foreign Affairs and with the agreement of the director of the administrative organ responsible for the work, decide that employees who work in representations of the Republic of Croatia in countries with particularly difficult climate or other conditions are entitled to the use of annual vacation time of up to 45 working days.

The minister of foreign affairs prescribes more detailed regulations about the way annual vacation time may be used, and about the travel expenses connected with it, in a manual of instructions mentioned under Article 27 of this law.

Article 33

Career diplomats have the right, upon returning from diplomatic or consular service abroad, to retain the title and category that they had in the representation of the Republic of Croatia abroad.

Article 34

Employees in representations of the Republic of Croatia abroad are especially required to:

- protect the interests and the reputation of the Republic of Croatia;
- protect the rights and interests of citizens of the Republic of Croatia and its legal entities in the host country;
- promote the political, economic, cultural, and other ties between the Republic of Croatia and the host country;
- act in accordance with the instructions and directives of the Ministry of Foreign Affairs;
- inform the Ministry of Foreign Affairs regularly about the work of the representation;
- protect the files, documents, keys, seals and stamps of the representation in a manner determined by special regulation;

- participate actively in social life by arranging social events and attending them;
- respect the laws of deportment and the customs of the host country.

Article 35

Employees in representations of the Republic of Croatia abroad and the members of their immediate families who live with them are particularly forbidden to:

- interfere in the internal affairs of the host country;
- assume the diplomatic or consular representation of third countries in the host country without the expressed permission of the Ministry of Internal Affairs;
- accept gifts, awards, or other forms of material or nonmaterial compensation, except for appropriate and customary personal gifts of small value;
- use the privileges and immunity to which they are entitled, as well as diplomatic mail, in a way contrary to what is intended;
- engage in any remunerative activity or other activity not commensurate with diplomatic status or the regulations and customs of the host country.

Article 36

If the spouse of an employee is employed at the time of the latter's departure for assignment to a representation of the Republic of Croatia abroad, or is recorded as unemployed at the authorized body, the period of sojourn overseas on the basis cited is credited to the spouse's time of seniority. The costs arising from this are covered by the budget of the Republic of Croatia.

Article 37

Unless otherwise specified under international agreements, the Republic of Croatia assumes the costs of the medical services that the employee or members of his immediate family who live with him require abroad, under the condition that they could not utilize such

services in the Republic of Croatia because of the urgency of the situation or the travel was not cost effective.

Article 38

Salaries and other payments for employees in representations of the Republic of Croatia abroad are set forth in the manual of instructions mentioned under article 27 of this law.

IV. PROVISIONAL AND FINAL REGULATIONS

Article 39

Until diplomatic and consular representations in foreign countries are opened, foreign offices of the Republic of Croatia perform the functions cited in this law, with the agreement of the host country.

Article 40

The minister of foreign affairs will issue the manual of instructions cited under article 27 of this law within three months of the day this law goes into effect.

Article 41

The provisions of Article 28 (paragraphs 1 and 2) of this law do not apply to persons who are employed in the Ministry of Foreign Affairs on the day this Law goes into effect.

Article 42

When this law goes into effect, the Law on Carrying Out Foreign Affairs Under the Jurisdiction of Federal Administrative Organs and Federal Organizations (SLUZBENI LIST SFRJ, No. 56/1981) ceases to apply in the Republic of Croatia.

Article 43

This law goes into effect on the day it is published in NARODNE NOVINE.

* VJESNIK is publishing a selection of enacted laws and their key provisions, while NARODNE NOVINE will publish the complete texts.

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